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**RESTATED TERMS AND CONDITIONS  
OF CONTRACT**

**DATED: AUGUST 26, 2008**

**ISSUED BY**

**THE GRAND VALLEY STATE UNIVERSITY BOARD OF TRUSTEES  
(AUTHORIZING BODY)**

**TO**

**THE PUBLIC SCHOOL ACADEMIES OF DETROIT**

**CONFIRMING THE STATUS OF**

**THE PUBLIC SCHOOL ACADEMIES OF DETROIT**

**AS AN**

**URBAN HIGH SCHOOL ACADEMY CORPORATION AUTHORIZED TO OPERATE  
ONE OR MORE URBAN HIGH SCHOOL ACADEMIES**

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## Contract to Charter One or More Urban High School Academies

Pursuant to Part 6c of the Revised School Code ("Code"), being Sections 380.521 to 380.529 of the Michigan Compiled Laws, the Grand Valley State University Board of Trustees ("University Board") authorizes The Public School Academies of Detroit Corporation (the "Academy") to operate one or more urban high school academies, as defined below. Each School shall commence on the dates set forth in Schedule 11. The Parties agree that the issuance of this Contract is subject to the following Terms and Conditions:

### ARTICLE I

#### DEFINITIONS

Section 1.1. Certain Definitions. For purposes of this Contract, and in addition to the terms defined throughout this Contract, each of the following words or expressions, whenever capitalized, shall have the meaning set forth in this section:

- a) **Academy** means the Michigan non-profit corporation authorized by this Contract.
- b) **Academy Board** means the Board of Directors of the Academy authorized by this Contract. **Academy Board member** or **Academy Director** means an individual who is a member of the Academy Board, whether in the past, present or future.
- c) **Applicable Law** means all state and federal law applicable to urban high school academies.
- d) **Applicant** means the entity that submitted the urban high school academy application to the University for the establishment of the Academy.
- e) **Application** means the urban high school academy application and other documentation submitted to the University for the establishment of one or more urban high school academies.
- f) **Authorizing Resolution** means the resolution(s) adopted by the University Board that, among other things, approve the issuing of a Contract to the Academy to operate one or more urban high school academies.
- g) **Code** means the Revised School Code, Act No. 451 of the Public Acts of 1976, as amended, being Sections 380.1 to 380.1852 of the Michigan Compiled Laws.
- h) **Contract Administrator** means the entity that has been granted, pursuant to section 529 of the Code, certain responsibilities by the Academy Board and University Board, as set forth in this Contract. In the event that the Contract Administrator performs services that meet the Code's definition of the types of services provided by an Educational Management Company, the Contract

Administrator shall comply with the Code requirements for an Educational Management Company.

- i) **Contract** means, in addition to the definition set forth in the Code, the Terms and Conditions and the Schedules.
- j) **Educational Management Company** means a person or entity that meets the Code's definition of an Educational Management Company, including the entity that has entered, or entities that may in the future enter, into an agreement with the Academy to provide comprehensive educational, administrative, management, or instructional services or staff to the Academy.
- k) **Fund Balance Deficit** means the Academy has more liabilities than asset at the end of any given fiscal year, and includes any fiscal year where the Academy would have had a budget deficit but for a financial borrowing from, or monetary contribution by, the Contract Administrator, an Educational Management Company or other person or entity to the Academy. If the Academy receives a gift or grant of money or financial support from the Contract Administrator, an Educational Management Company or other person or entity that does not require repayment by the Academy, and is not conditioned upon the actions or inactions of the Academy Board, then such gift or grant shall not constitute a financial borrowing or contribution for purposes of determining a Fund Balance Deficit.
- l) **Master Calendar of Reporting Requirements (MCRR)** means the compliance certification duties required of the Academy by the University Board. The University Board may amend the MCRR each fiscal year or at such other times as deemed appropriate by the University President. These changes shall be automatically incorporated into the Contract and shall be exempt from the Contract amendment procedures under Article IX of these Terms and Conditions.
- m) **Method of Selection Resolution** means the resolution adopted by the University Board providing for the method of selection, length of term, number of Academy Board members, qualification of Board Academy members and other pertinent provisions related to the Academy Board.
- n) **Schedules** mean the schedules incorporated into and part of the Terms and Conditions.
- o) **School** means one or more urban high school academies the Academy is authorized to operate under this Contract.
- p) **Terms and Conditions** means this document.
- q) **University** means Grand Valley State University established pursuant to Article VIII, Sections 4 and 6 of the Michigan Constitution of 1963 and MCL 390.841 *et seq.*



- r) **University Board** means the Grand Valley State University Board of Trustees.
- s) **University Charter Schools Hearing Panel or Hearing Panel** means such person(s) as designated by the University President.
- t) **University Charter Schools Office or CSO** means the office the University Board, by issuance of this Contract, hereby designates as the point of contact for urban high school academy applicants and urban high school academies authorized by the University Board. The University Charter Schools Office is also responsible for managing, implementing, and overseeing the University Board's responsibilities with respect to the Contract.
- u) **University Charter Schools Office Director or CSO Director** means the person designated by the University President to administer the operations of the University Charter Schools Office.
- v) **University President** means the President of Grand Valley State University or his or her designee.

Section 1.2. Schedules. All Schedules to this Contract are part of this Contract.

Section 1.3. Statutory Definitions. Statutory terms defined in the Code shall have the same meaning in this Contract.

Section 1.4. Application. Portions of the Applicant's Application have been incorporated into this Contract. In the event that there is an inconsistency or dispute between materials in the Application and the Contract, the language or provisions in the Contract shall control.

Section 1.5. Conflicting Contract Provisions. In the event that there is a conflict between language contained in the provisions of this Contract, the Contract shall be interpreted as follows: (i) the Method of Selection Resolution shall control over any other conflicting language in the Contract; (ii) the Authorizing Resolution shall control over any other conflicting language in the Contract with the exception of language in the Method of Selection Resolution; (iv) the Terms and Conditions shall control over any other conflicting language in the Contract with the exception of language in the Method of Selection Resolution and the Authorizing Resolution; and (v) the Articles of Incorporation shall control over any other conflicting language in the Contract with the exception of language in the Method of Selection Resolution, Authorizing Resolution and these Terms and Conditions.

## ARTICLE II

### ROLE OF GRAND VALLEY STATE UNIVERSITY BOARD OF TRUSTEES AS AUTHORIZING BODY

Section 2.1. University Board Resolutions. For purposes of this Contract, the University Board has adopted the following resolutions:

(a) Method of Selection Resolution. The University Board has adopted the Method of Selection Resolution which is incorporated into this Contract as part of Schedule 1. At anytime and at its sole discretion, the University Board may amend the Method of Selection. Upon University Board approval, changes to the Method of Selection Resolution shall automatically be incorporated into this Contract and shall be exempt from the amendment procedures under Article IX of the Terms and Conditions.

(b) Authorizing Resolutions. The University Board has adopted the Authorizing Resolutions which are incorporated into this Contract as part of Schedule 1.

Section 2.2. Method for Monitoring Academy's Compliance with Applicable Law and Performance of its Targeted Educational Outcomes. The University Board has the responsibility to oversee the Academy's compliance with the Contract and all Applicable Law. The Academy shall perform the compliance certification duties required by the University Board as outlined in the Contract and MCRR incorporated into this Contract as Schedule 5. Additionally, the Academy shall be responsible for the following:

- a) The Academy shall provide the Charter Schools Office with copies of reports and assessments concerning the educational outcomes achieved by pupils attending the Academy and shall provide necessary approvals for the Charter Schools Office to access electronic information received or stored by the State of Michigan including, but not limited to, the Department of Education or other agency authorized by the State to collect school data.
- b) In the event that the University President determines that the Academy's educational outcomes should be reviewed to help determine if the Academy is meeting the educational goals set forth in the Schedules, the University President, at his or her discretion, may require an objective evaluation of student performances by an educational consultant, acceptable to both the Academy and the University President. The Academy shall pay for the expense of the evaluation. In addition, at any time, the University President may require an evaluation of student performance to be selected by and at the expense of the University. The Academy shall cooperate with the evaluation, including any student testing required.
- c) The Academy shall submit audited financial statements, including auditor's management letters and any exceptions noted by the auditors, to the University Charter Schools Office. The financial statements and auditor's management letters shall be submitted to the University Charter Schools Office within ninety (90) days after the end of the Academy's fiscal year.
- d) The Academy shall provide the University Charter Schools Office with a copy of the proposed annual budget for the upcoming fiscal year of the Academy no later than July 1<sup>st</sup>. The Academy Board is responsible for establishing, approving and amending the annual budget in accordance with the Uniform Budgeting and Accounting Act, MCL 141.421 *et seq.*, and for providing all amendments and

revisions to the University Charter Schools Office following Academy Board approval.

- e) The Academy shall provide to the University Charter Schools Office minutes of all Academy Board meetings no later than fourteen (14) days after such meeting.
- f) Within ten (10) days of receipt, the Academy shall notify the University Charter Schools Office of correspondence received from the Department of Education or State Board of Education that requires a written or formal response.
- g) Within ten (10) days of receipt, the Academy shall report to the University Charter Schools Office and the University Counsel Office any litigation or formal proceedings alleging violation of Applicable Law or contractual agreement against the Academy, its officers, employees, agents, and/or contractors.
- h) The Academy shall permit review of the Academy's records and inspection of its premises at any time by representatives of the University. Normally, such inspections shall occur during the Academy's hours of operation and after advance notice to the Academy.

Section 2.3. Reimbursement of University Board Costs. The Academy shall pay the University Board an administrative fee of 3% of the state school aid payments received by the Academy. This fee shall be retained by the University Board from each state school aid payment received by the University Board for forwarding to the Academy. This fee shall compensate the University Board for overseeing the Academy's compliance with the Contract and all Applicable Law. The University's use of the administrative fee shall be governed by the Code.

Section 2.4. University Board as Fiscal Agent for the Academy. The University Board is the fiscal agent for the Academy. The University Board shall promptly, within three (3) business days, forward to the Academy all state school aid funds or other public or private funds received by the University Board for the benefit of the Academy. The University Board shall retain any amount owed to the University Board by the Academy pursuant to this Contract. For purposes of this section, the responsibilities of the University Board, the State of Michigan, and the Academy are set forth in the Fiscal Agent Agreement incorporated herein as Schedule 4.

Section 2.5. Authorization of Employment. The Academy may employ or contract with personnel. If the Academy contracts for personnel with an Educational Management Company, the University's authorization shall not be effective unless and until the agreement complies with Section 11.12 of these Terms and Conditions. With respect to Academy employees, the Academy shall have the power and responsibility to (i) select and engage employees; (ii) pay their wages; (iii) dismiss employees; and (iv) control the employees' conduct, including the method by which the employee carries out his or her work. An employee hired by the Academy shall be an employee of the Academy for all purposes and not an employee of the University for any purpose. The Academy shall be responsible for carrying worker's compensation insurance and unemployment insurance for its employees.

Section 2.6. Financial Obligations of the Academy are Separate from the State of Michigan, University Board and the University. Any contract, mortgage, loan or other

instrument of indebtedness entered into by the Academy and a third party shall not in any way constitute an obligation, either general, special, or moral, of the State of Michigan, the University Board, or the University. Neither the full faith and credit nor the taxing power of the State of Michigan or any agency of the State, nor the full faith and credit of the University Board or the University shall ever be pledged for the payment of any Academy contract, mortgage, loan or other instrument of indebtedness.

Section 2.7. Academy Has No Power To Obligate or Bind State of Michigan, University Board or the University. The Academy has no authority whatsoever to enter into any contract or other agreement that would financially obligate the State of Michigan, University Board or the University, nor does the Academy have any authority whatsoever to make any representations to lenders or third parties, that the State of Michigan, University Board or the University in any way guarantee, are financially obligated, or are in any way responsible for any contract, mortgage, loan or other instrument of indebtedness entered into by the Academy.

Section 2.8. Contract Administrator; Limits on Authority. The Code permits the University Board and the Academy to define the role of the Contract Administrator. In accordance with section 529(c) of the Code, MCL 380.529(c), the Contract Administrator shall have such authority as delegated by the Academy Board to carryout its duties and responsibilities, as further defined in the agreement between the Academy and the Contract Administrator. Notwithstanding any provision agreed to by the Contract Administrator and the Academy, the Contract Administrator shall not be authorized to carry out any duty or responsibility that cannot be legally delegated by the Academy to the Contract Administrator. For purposes of this Contract, non-delegable duties shall include the following: (i) selection and nomination of individuals to serve on the Academy Board; (ii) approval or amendment of this Contract; (iii) voluntary termination of this Contract by the Academy Board; (iv) the decision to dissolve and wind-up the business affairs of the Academy and (v) expulsion of Academy students.

### ARTICLE III

#### REQUIREMENT THAT ACADEMY ACT SOLELY AS GOVERNMENTAL AGENCY OR ENTITY AND POLITICAL SUBDIVISION

Section 3.1. Governmental Agency or Entity and Political Subdivision. The Academy shall act exclusively as a governmental entity and political subdivision.

Section 3.2. Other Permitted Activities. Nothing in this Contract shall prohibit the Academy from engaging in other lawful activities that are not in derogation of the Academy's status as a public school or that would not jeopardize the eligibility of the Academy for state school aid funds. Subject to Section 2.5 of Article II of the Terms and Conditions, the Academy may enter into agreements with other public schools, public school academies, governmental units, businesses, community and nonprofit organizations where such agreements contribute to the effectiveness of the Academy or advance education in this state.

## ARTICLE IV

### PURPOSE

Section 4.1. Academy's Purpose. The Academy Board shall identify the purpose or mission of each School. Any subsequent change to a School's purpose or mission shall be carried out by amendment in accordance with Article IX of these Terms and Conditions. Each School's stated purpose or mission shall be set forth in the Schedules.

## ARTICLE V

### CORPORATE STRUCTURE OF THE ACADEMY

Section 5.1. Articles of Incorporation. Unless amended pursuant to Section 9.2 of Article IX herein, the Articles of Incorporation of the Academy, as set forth in Schedule 2, shall be the Articles of Incorporation of the Academy. The Academy Board represents to the University Board that Schedule 2 includes all amendments to the Academy's Articles of Incorporation as of the date set forth above.

Section 5.2. Bylaws. Unless amended pursuant to Section 9.3 of Article IX herein, the Bylaws of the Academy, as set forth in Schedule 3, shall be the Bylaws of the Academy. The Academy Board represents to the University Board that Schedule 3 includes all amendments to the Academy's Bylaws as of the date set forth above.

## ARTICLE VI

### OPERATING REQUIREMENTS

Section 6.1. Governance Structure. The Academy shall be organized and administered under the direction of the Academy Board and pursuant to the governance structure as set forth in its Bylaws. The Academy's Board of Directors shall meet at least six times per fiscal year, unless another schedule is mutually agreed upon by the University President and the Academy.

Section 6.2. Contributions and Fund Raising. The Academy may solicit and receive contributions and donations as permitted by law. No solicitation shall indicate that a contribution to the Academy is for the benefit of the University. The University shall not be required to receive any contributions or donations for the benefit of the Academy. If the University receives contributions or donations for the benefit of the Academy, it shall forward such funds to the Academy within three (3) business days of receipt.

Section 6.3. Educational Goals and Programs. The Academy shall pursue the educational goals and programs identified for each School and contained in the Schedules. Such goals and programs may be amended pursuant to Section 9.1 of Article IX of the Terms and Conditions.

Section 6.4. Curriculum. The Academy shall have flexibility in developing, realigning, and implementing the curriculum identified in the Schedules. Any changes to the curricula shall be administered pursuant to Section 9.1 of Article IX of the Terms and Conditions, and such

proposed curricula shall be designed to achieve the Academy's overall educational goals and State's educational assessment objectives.

Section 6.5. Methods of Accountability. In addition to those set forth in this Section 6.5, the Academy shall evaluate each School and its pupils' work based on the assessment strategies identified in the Schedules. The Academy shall provide the University Charter Schools Office with copies of reports, assessments and test results concerning the following:

- a) educational outcomes achieved by pupils attending each School and other reports reasonably requested by the University Charter Schools Office;
- b) an assessment of each School's student performance at the end of each academic school year or at such other times as the University Board may reasonably request;
- c) an annual education report in accordance with the Code;
- d) an annually administered nationally recognized norm-referenced achievement test to each School's grade configuration or a program of testing approved by the University Charter Schools Office Director; and
- e) all tests required under Applicable Law.

The University Board may use such reports, assessments and test results in making its decision to continue, suspend, terminate or revoke the Contract or the Academy's authorization to operate a particular School(s).

Section 6.6. Staff Responsibilities. Subject to Section 2.5 of Article II of the Terms and Conditions, the University Board authorizes the Academy to employ or contract with personnel for each School as set forth in the Schedules.

Section 6.7. Admission Policy. The Academy shall comply with all admissions policies and criteria required by Applicable Law. A copy of the Academy's admission policies and criteria is set forth in the Schedules.

Section 6.8. School Calendar/School Day Schedule. The Academy shall comply with all minimum standards governing the length of the school term, minimum number of days and hours of instruction required by Applicable Law.. The Academy agrees to make available to the CSO Office a copy of the School Calendar/School Day Schedule for each School no later than July 1<sup>st</sup>. A copy of the School Calendar/School Day Schedule shall be automatically incorporated into the Schedules, without the need for an amendment under Article IX of the Terms and Conditions.

Section 6.9. Age/Grade Range of Pupils Enrolled. The Academy is authorized to operate a Kindergarten through Twelve Grade (K-12) Configuration for each School. Within five (5) years from commencing operations, each School operated by the Academy shall offer grades 9 through 12. The current Age/Grade Range of Pupils Enrolled in each School is set forth in the Schedules. The Academy may add additional programs in the future, pursuant to Section 9.1 of Article IX of the Terms and Conditions.

Section 6.10. Annual Financial Audit. The Academy shall conduct an annual financial audit prepared and reviewed by an independent certified public accountant in accordance with generally accepted governmental auditing principles.

Section 6.11. Address and Description of Proposed Site(s). Pursuant to section 522(5) of the Code, MCL 380.522(5), the University Board authorizes the Academy to operate the Schools, each with a grade configuration of Kindergarten through Twelfth Grade (K-12), at the site or sites identified the Schedules. The proposed addresses and descriptions of each School's proposed site or sites, as well as the address of each School's central administrative office, is set forth in the Schedules. For purposes of this Contract, the Academy shall be in violation of the single site restrictions set forth in the Code if the Academy operates any School at another site or sites without first obtaining the written authorization of the University Board.

Following Academy Board and University Board approval, proposed changes to the address and description of any School site or sites, including the addition of any new site or sites that constitute the equivalent of a separate contract under section 524(1) of the Code, MCL 380.524(1), shall be incorporated into this Contract by amendment.

Section 6.12. Accounting Standards. The Academy shall at all times comply with generally accepted public sector accounting principles.

Section 6.13. Placement of University Student Interns. The Academy may be a placement site for University students who are in education or other pre-professionals in training to serve in public schools. Such placement shall be without charge to the University and subject to other terms and conditions as the Academy and the University agree.

Section 6.14. Disqualified Organizational or Contractual Affiliations. The Academy shall comply with all state and federal law applicable to public schools concerning church-state issues. To the extent disqualified under the state or federal constitutions, the Academy shall not be organized by a church or other religious organization and shall not have any organizational or contractual affiliation with or constitute a church or other religious organization. Nothing in this Section shall be deemed to diminish or enlarge the civil and political rights, privileges and capacities of any person on account of his or her religious belief.

## **ARTICLE VII**

### **TUITION PROHIBITED**

Section 7.1. Tuition Prohibited; Fees and Expenses. The Academy shall not charge tuition. The Academy may impose fees and require payment of expenses for activities of the Academy where such fees and payments are not prohibited by law.

## **ARTICLE VIII**

### **COMPLIANCE WITH PART 6C OF THE CODE AND OTHER LAWS**

Section 8.1. Compliance with Part 6c of the Code. The Academy shall comply with Part 6c and other parts of the Code that apply to urban high school academies. With the exception of

Part 6a of the Code, the Academy shall comply with other provisions of the Code applicable to public school academies.

Section 8.2. Compliance with State School Aid Act. In order to assure that funds are available for the education of pupils, the Academy shall comply with all applicable provisions of the State School Aid Act of 1979, as amended from time to time. The Academy may expend funds from the State School Aid Act for any purpose permitted by the State School Aid Act of 1979 and may enter into contracts and agreements determined by the Academy as consistent with the purposes for which the funds were appropriated.

Section 8.3. Open Meetings Act. Pursuant to Section 522(3)(a) of the Code, the Academy Board shall conduct all of its meetings in accordance with the Michigan Open Meetings Act, Act No. 267 of the Public Acts of 1976, as amended, being Sections 15.261 to 15.275 of the Michigan Compiled Laws.

Section 8.4. Freedom of Information Act. Pursuant to Section 522(3)(b) of the Code, the records of the Academy shall be records subject to the provisions of the Michigan Freedom of Information Act ("FOIA"), Act No. 442 of the Public Acts of 1976, as amended, being Sections 15.231 to 15.246 of the Michigan Compiled Laws. The Academy Board shall designate a freedom of information coordinator to assure compliance with FOIA and other applicable law providing for public disclosure or for protection of privacy.

Section 8.5. Public Employees Relation Act. Pursuant to Section 522(3)(c) of the Code, the Academy shall comply with Act No. 336 of the Public Acts of 1947, being Sections 423.201 to 423.217 of the Michigan Compiled Laws. Organizational efforts and collective bargaining agreements, if any, with employees of the Academy shall be the responsibility of the Academy.

Section 8.6. Prevailing Wage on State Contracts. Pursuant to Section 522(3)(d), the Academy shall comply with the Prevailing Wage on State Contracts statute, Act No. 166 of the Public Acts of 1965, being Sections 408.551 to 408.558 of the Michigan Compiled Laws.

Section 8.7. Uniform Budgeting and Accounting Act. Pursuant to Section 522(3)(g), the Academy shall comply with the Uniform Budgeting and Accounting Act, Act No. 2 of the Public Acts of 1968, being MCL 141.421 to 141.440a.

Section 8.8. Revised Municipal Finance Act of 2001. Pursuant to Section 522(3)(h), the Academy shall comply with the Revised Municipal Finance Act of 2001, Act No. 34 of the Public Acts of 2001, being MCL 141.2101 to 141.2821 of the Michigan Compiled Laws.

Section 8.9. Non-discrimination. The Academy shall be separately responsible for compliance with applicable laws pertaining to equal opportunity and anti-discrimination laws such as the Elliott-Larsen Civil Rights Act, Act No. 453 of the Public Acts of 1976, as amended, being MCL 37.2101 to 37.2804, the Michigan Handicappers' Civil Rights Act, Act No. 22 of the Public Acts of 1976, as amended, being MCL 37.1101 to 37.1607, and Subtitle A of Title II of the Americans with Disabilities Act of 1990, Public Law 101-336, 42 USC & 12101 *et seq.* or any successor law.



Section 8.10. Other State Laws. The Academy shall comply with other state laws which are applicable to urban high school academies. Nothing in this Contract shall be deemed to apply any other state law to the Academy.

Section 8.11. Federal Laws. The Academy shall comply with federal laws which are applicable to urban high school academies. Nothing in this Contract shall be deemed to apply any other federal law to the Academy.

## ARTICLE IX

### AMENDMENT

Section 9.1. Process for Amending the Contract. Either party may propose changes in this Contract or may propose a meeting to discuss potential revision of this Contract. Except as provided in Sections 2.1, 5.1 and 6.11, the University Board delegates to its University President the review and approval of changes or amendments to this Contract. The Academy Board may delegate the same authority to the Academy Board President. The Contract shall be amended upon agreement and approval of the respective authorized designees.

Section 9.2. Process for Amending the Articles. The Academy Board, or any authorized designee of the Academy Board, may propose changes to the Academy's Articles of Incorporation. The Academy shall be authorized to make such changes to its Articles upon a majority vote of the University Board members attending a University Board meeting. Upon University Board approval, the Academy Board's authorized designee is authorized to file the amendment to the Academy's Articles of Incorporation with the Michigan Department of Labor and Economic Growth, Bureau of Commercial Services. Upon receipt of the filed amendment, the Academy shall forward the filed amendment to the University Charter Schools Office. The filed amendment shall be automatically incorporated into Schedule 2 of this Contract upon receipt of the amendment by the University Charter Schools Office. If the University identifies a provision in the Articles of Incorporation that violates or conflicts with this Contract, due to a change in law or for other reasons, after approval has been given, it shall notify the Academy Board in writing and the Academy Board shall amend the Articles of Incorporation to make them consistent with the Contract. If the change is requested by the University, the University shall reimburse the Academy for the filing fees payable to the Michigan Department of Labor and Economic Growth.

Section 9.3. Process for Amending the Bylaws. The Academy Board shall submit proposed Bylaw changes to the Charter Schools Office, for review and comment, at least thirty (30) days prior to Academy Board adoption. The Academy's Bylaws, and any subsequent or proposed changes to the Academy's Bylaws, shall not violate or conflict with the Contract. If at any time the University identifies a provision in the Academy Board's Bylaws that violates or conflicts with Applicable Law or this Contract, the Academy Board's Bylaw shall be automatically void and the Academy Board shall amend the identified provision to be consistent with Applicable Law and the Contract. The amendment shall be automatically incorporated into Schedule 3 of the Contract upon receipt by the University Charter Schools Office of a duly authorized Academy Board bylaw change made in accordance with this Section 9.3.

## ARTICLE X

### CONTRACT REVOCATION, SUSPENSION, AND TERMINATION

Section 10.1. Statutory Grounds for Revocation. This Contract may be revoked by the University Board upon a determination by the University Board, pursuant to the procedures set forth in Section 10.3, that one or more of the following has occurred:

- a) Failure of the Academy to abide by and meet the educational goals set forth in this Contract;
- b) Failure of the Academy to comply with all Applicable Law;
- c) Failure of the Academy to meet generally accepted public sector accounting principles; or
- d) The existence of one or more other grounds for revocation as specified in this Contract.

Section 10.2. Other Grounds for Revocation. In addition to the statutory grounds for revocation set forth in Section 10.1, the University Board may, in its sole discretion, revoke this Contract pursuant to the procedures set forth in Section 10.3 upon a determination that one or more of the following has occurred:

- a) The Academy is insolvent, has been adjudged bankrupt, or has operated for one or more school fiscal year(s) with a Fund Balance Deficit;
- b) The Academy has insufficient enrollment to successfully operate a School, or the Academy has lost more than twenty-five percent (25%) of its student enrollment in a School from the previous school year;
- c) The Academy defaults in any of the terms, conditions, promises or representations contained in or incorporated into this Contract;
- d) The Academy files amendments to its Articles of Incorporation with the Michigan Department of Labor and Economic Growth, Bureau of Commercial Services without first obtaining University Board approval;
- e) The University discovers grossly negligent, fraudulent or criminal conduct by the Applicant, the Academy's directors, officers, employees or agents in relation to their performance under this Contract;
- f) The Applicant, the Academy's directors, officers or employees have provided false or misleading information or documentation to the University in connection with the University Board's approval of the Application, the issuance of this Contract, or the Academy's reporting requirements under this Contract or Applicable Law;

- g) The Academy fails to offer grades 9 through 12 within 5 years after commencing operations at any School;
- h) The Academy violates the single site restrictions set forth in the Code or the Academy operates at a separate site or sites that constitutes the issuance of a contract under Section 524 of the Code, MCL 380.524, without the prior written authorization of the University Board; or
- i) The University Board, its trustees, officers, employees, agents or representatives are not included as third party beneficiaries under any educational management agreement entered into by the Academy for purposes of indemnifying such parties in accordance with Section 11.12 of the Terms and Conditions.

Section 10.3. University Board Procedures for Revoking Contract. The University Board's process for revoking the Contract is as follows:

- a) Notice of Intent to Revoke. The CSO Director or other University Representative, upon reasonable belief that such grounds for revocation of the Contract exist, shall notify the Academy Board of such grounds by issuing the Academy Board a Notice of Intent to Revoke for non-compliance with the Contract or Applicable Law. The Notice of Intent to Revoke shall be in writing and shall set forth in sufficient detail the alleged grounds for revocation.
- b) Academy Board's Response. Within thirty (30) days of receipt of the Notice of Intent to Revoke, the Academy Board shall respond in writing to the alleged grounds for revocation. The Academy Board's response shall be addressed to the CSO Director, and shall either admit or deny the allegations of non-compliance. If the Academy's response includes admissions of non-compliance with the Contract or Applicable Law, the Academy Board's response must also contain a description of the Academy Board's plan and time line for correcting the non-compliance with the Contract or Applicable Law. If the Academy's response includes a denial of non-compliance with the Contract or Applicable Law, the Academy's response shall include sufficient documentation or other evidence to support a denial of non-compliance with the Contract or Applicable Law. A response not in compliance with this section shall be deemed to be non-responsive. As part of its response, the Academy Board may request that a meeting be scheduled with the CSO Director prior to a review of the Academy Board's response.
- c) Plan of Correction. Within fifteen (15) days of receipt of the Academy Board's response or after a meeting with Academy Board representatives, whichever is sooner, the CSO Director shall review the Academy Board's response and determine whether a reasonable plan for correcting the deficiencies can be formulated. If the CSO Director determines that a reasonable plan for correcting the deficiencies set forth in the Notice of Intent to Revoke can be formulated, the CSO Director shall develop a plan for correcting the non-compliance ("Plan of Correction"). In developing a Plan of Correction, the CSO Director is permitted to adopt, modify or reject some or all of the Academy Board's response for correcting the deficiencies

outlined in the Notice of Intent to Revoke. The Notice of Intent to Revoke shall be withdrawn if the CSO Director determines any of the following: (i) the Academy Board's denial of non-compliance is persuasive; (ii) the non-compliance set forth in the Notice of Intent to Revoke has been corrected by the Academy Board; or (iii) the Academy Board has successfully completed the Plan of Correction. In the event the Notice of Intent to Revoke is withdrawn, the CSO Director shall notify the Academy Board, in writing, of such withdrawal.

- d) Plan of Correction Shall Include Conditions to Satisfy University Board's Contract Reconstitution Obligation. As part of the Plan of Correction, the CSO Director shall reconstitute the Academy in an effort to improve student educational performance and to avoid interruption of the educational process. An attempt to improve student educational performance may include, but is not limited to, one of the following actions: (i) removal of 1 or more members of the Academy Board members; (ii) termination of at-will board appointments of 1 or more Academy Board members; (iii) withdrawal of Academy's authorization to contract with Educational Management Company; or (iv) the appointment of a new Academy Board of Directors or a trustee to take over operations of the Academy.
- e) Request for Revocation Hearing. The CSO Director or other University Representative, may initiate a revocation hearing before the University Charter Schools Hearing Panel if the CSO Director determines that any of the following has occurred:
- i) the Academy Board has failed to timely respond to the Notice of Intent to Revoke as set forth in Section 10.3(b);
  - ii) the Academy Board's response to the Notice of Intent to Revoke is non-responsive;
  - iii) the Academy Board's response admits violations of the Contract or Applicable Law which the CSO Director deems cannot be remedied or cannot be remedied in an appropriate period of time, or for which the CSO Director determines that a Plan of Correction cannot be formulated;
  - iv) the Academy Board's response contains denials that are not supported by sufficient documentation or other evidence showing compliance with the Contract or Applicable Law;
  - v) the Academy Board has not complied with part or all of a Plan of Correction established in Section 10.3(c);
  - vi) the Academy Board has engaged in actions that jeopardize the financial or educational integrity of the Academy; or
  - vii) the Academy Board has been issued multiple or repeated Notices of Intent to Revoke.

The CSO Director or other University Representative shall send a copy of the Request for Revocation Hearing to the Academy Board at the same time the request is sent to the Hearing Panel. The Request for Revocation Hearing shall identify the reasons for revoking the Contract.

- f) Hearing before University Charter Schools Hearing Panel. Within thirty (30) days of the date of a Request for Revocation Hearing, the Hearing Panel shall convene a revocation hearing. The Hearing Panel shall provide a copy of the Notice of Hearing to the University Charter Schools Office and the Academy Board at least ten (10) days before the hearing. The purpose of the Hearing Panel is to gather facts surrounding the CSO Director's request for Contract revocation, and to make a recommendation to the University Board on whether the Contract should be revoked. The revocation hearing shall be held at a location, date and time as determined by the CSO Director or other University Representative. The hearing shall be transcribed by a court reporter and the cost of the court reporter shall be divided equally between the University and the Academy. The CSO Director or his or her designee, and the Academy Board or its designee, shall each have equal time to make their presentation to the Hearing Panel. Although each party is permitted to submit affidavits and exhibits in support of their positions, the Hearing Panel will not hear testimony from any witnesses for either side. The Hearing Panel, may, however, question the CSO Director and one or more members of the Academy Board. Within thirty (30) days of the Revocation Hearing, the Hearing Panel shall make a recommendation to the University Board concerning the revocation of the Contract. In its discretion, the Hearing Panel may extend any time deadline set forth in this subsection. A copy of the Hearing Panel's recommendation shall be provided to the University Charter Schools Office and the Academy Board at the same time that the recommendation is sent to the University Board.
- g) University Board Decision. If the Hearing Panel's recommendation is submitted to the University Board at least fourteen (14) days before the University Board's next regular meeting, the University Board shall consider the Hearing Panel's recommendation at its next regular meeting and vote on whether to revoke the Contract. The University Board reserves the right to modify, reject or approve all or any part of the Hearing Panel's recommendation. The University Board shall have available copies of the Hearing Panel's recommendation and the transcript of the hearing. The University Board may waive the fourteen (14) day submission requirement or hold a special board meeting to consider the Hearing Panel's recommendation. A copy of the University Board's decision shall be provided to the University Charter Schools Office, the Academy Board and the Michigan Department of Education.
- h) Effective Date of Revocation. If the University Board votes to revoke the Contract, the revocation shall be effective on the date of the University Board's act of revocation, or at a later date as determined by the University Board, but no later than the last day of the Academy's current academic year.
- i) Disposition of State School Aid Funds. Notwithstanding any other provision of the Contract, any state school aid funds received by the University Board after a recommendation is made by the Hearing Panel to revoke the Contract, or a decision by the University Board to revoke the Contract, may be held by the University Board and returned to the Michigan Department of Treasury.

- j) Disposition of District Code Number. Notwithstanding any other provision of the Contract, after a recommendation is made by the Hearing Panel to revoke the Contract, or a decision by the University Board to revoke the Contract, the district code number shall remain under the direction and control of the State Board of Education and/or its designated representative.

Section 10.4. Contract Suspension. The University Board's process for suspending the Contract is as follows:

- a) University President Action. If the University President determines, in his or her sole discretion, that conditions or circumstances exist that the Academy Board (i) has placed the health or safety of Academy staff and/or students at risk; (ii) is not properly exercising its fiduciary obligations to protect and preserve the Academy's public funds and property; (iii) has lost its right to occupancy of the physical facilities described in Section 6.11, and cannot find another suitable physical facility for the Academy prior to the expiration or termination of its right to occupy its existing physical facilities or (iv) has willfully or intentionally violated this Contract or Applicable Law, the University President may immediately suspend the Contract. If the conditions or circumstances involve an alleged violation of Sections 10.1 or 10.2, the University President is authorized to suspend the Contract immediately pending completion of the procedures set forth in Section 10.3. Unless otherwise specified in the suspension notice, the Academy shall cease operations on the date on which the suspension notice is issued. A copy of the suspension notice, setting forth the grounds for suspension, shall be sent to the Academy Board and to the Hearing Panel, if applicable. If this subsection is implemented, the notice and hearing procedures set forth in Section 10.4 shall be expedited as much as possible.
- b) Disposition of State School Aid Funds. Notwithstanding any other provision of the Contract, any state school aid funds received by the University Board after a decision by the University President to suspend the Contract, shall be retained by the University Board for the Academy until the Contract is reinstated, or shall be returned to the Michigan Department of Treasury.
- c) Immediate Revocation Proceeding. If the Academy Board, after receiving a Suspension Notice from the University President continues to engage in conduct or activities that are covered by the suspension notice, the Hearing Panel may immediately convene a Revocation Hearing in accordance with the procedures set forth in Section 10.3(e) of the Terms and Conditions. The Hearing Panel has the authority to accelerate the time line for revoking the Contract, provided that notice of the revocation hearing shall be provided to the University Charter Schools Office and the Academy Board at least five (5) days before the hearing. If the Hearing Panel determines that the Academy Board has continued to engage in conduct or activities that are covered by the suspension notice, the Hearing Panel may recommend revocation of the Contract. The University Board shall proceed to consider the Hearing Panel's recommendation in accordance with Section 10.3(f) through (i).

Section 10.5. Grounds and Procedures for Academy Termination of Contract. At anytime and for any reason, the Academy Board may terminate this Contract. The Academy Board shall notify the CSO Director in writing of the request for the termination of the Contract not less than ten (10) calendar months in advance of the effective date of termination. The University Board, in its sole discretion, may waive the ten (10) month requirement. A copy of the Academy Board's resolution approving the Contract termination, including a summary of the reasons for terminating the Contract, shall be included with the written termination request.

Section 10.6. Superintending Control in the Event of an Emergency; Appointment of Conservator. Notwithstanding any other provision of the Contract, when the University Board determines that conditions or circumstances exist to lead the University Board to believe that the health, safety, educational or economic interest of the Academy or its students is at risk, the University Board may exercise superintending control over the Academy pending completion of the procedures described in Sections 10.3 and 10.7. The University Board may appoint a conservator to manage the day to day operations of the Academy in place of the Academy Board. A conservator appointed by the University Board shall have all the powers and authority of the Academy Board under this Contract and Applicable Law. Upon the appointment of a conservator, the appointment and term of office for each Academy Board member shall cease. If this section has been implemented and the Hearing Panel determines the revocation to be appropriate, the revocation shall become effective immediately upon the University Board's decision.

Section 10.7. Termination by University Board. The University Board, in its sole discretion, reserves the right to terminate the Contract for any reason provided that such termination shall not take place less than one (1) year from the date of the University Board's action. The University Charter Schools Office shall provide notice of the termination to the Academy. If during the period between the University Board action to terminate and the effective date of termination, the Academy has violated the Contract or Applicable Law, the Contract may be revoked or suspended sooner or the University Board may take superintending control actions pursuant to this Article X.

Following issuance of this Contract, if there is a change in Applicable Law that the University Board, in its sole discretion, determines impairs its rights and obligations under the Contract or requires the University Board to make changes in the Contract that are not in the best interest of the University Board or the University, then the University Board may terminate the Contract at the end of the Academy's school fiscal year in which the University Board's decision to terminate is adopted.

Section 10.8. School Authorization Termination. If the Academy for any reason is unable to enroll students and conduct classes within (12) twelve months from the identified opening date at any School, then the University Board's authorization for that particular School is automatically terminated without further action of the parties. The University Board may waive this (12) twelve month requirement by written permission prior to the conclusion of the (12) twelve month period.

Section 10.9. Adverse University Board Action Against Academy Site Constituting Separate Contract. If the University Board has authorized the Academy to operate at different

sites under this Contract, and those different sites constitute a separate contract for purposes of section 524 of the Code, then the University Board, at its sole discretion, may take action under the applicable section of this Article X, to revoke, suspend or terminate a permitted site constituting a contract for purposes of Section 524 of the Code, without acting on or adversely affecting the Academy's authority to operate under this Contract or the Academy's authority to operate another School not subject to such action. If applicable, the University Board shall identify the School constituting a contract for purposes of Section 524 of the Code in any notice issued under this Article X.

## ARTICLE XI

### PROVISIONS RELATING TO URBAN HIGH SCHOOL ACADEMIES

Section 11.1. Grand Valley State University Faculty Employment in the Academy. Subject to the ability of the Academy to reach separate agreement on the terms, the Academy is permitted to use University faculty as classroom teachers in any grade and at any School.

Section 11.2. The Academy Faculty Appointment to Grand Valley State University Faculty. Nothing in this Contract shall prohibit a member of the Academy faculty from being appointed to or serving as a member of the University faculty.

Section 11.3. Student Conduct and Discipline. The Academy Board shall adopt, abide by and enforce its own set of written policies concerning student conduct and student discipline.

Section 11.4. Insurance. The Academy shall secure and maintain in its own name as the "first named insured" at all times the following insurance coverage:

- a) Property insurance covering all of the Academy's real and personal property, whether owned or leased;
- b) General/Public Liability with a minimum of one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate (Occurrence Form);
- c) Auto Liability (Owned and Non-Owned) with a minimum of one million dollars (\$1,000,000) (Occurrence Form);
- d) Workers' Compensation or Workers' Compensation without employees "if any" insurance (statutory limits) and Employers' Liability insurance with a minimum of five hundred thousand dollars (\$500,000);
- e) Errors & Omissions insurance including Directors & Officers and School Leaders Errors & Omissions Liability insurance with a minimum of one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) aggregate (Claims Made or Occurrence Form);
- f) Crime including employee dishonesty insurance with a minimum of five hundred thousand dollars (\$500,000);



- g) Employment Practices Liability insurance with a minimum of one million dollars (\$1,000,000) per claim/aggregate (Claims Made or Occurrence Form).

The insurance must be obtained from a licensed mutual, stock, or other responsible company licensed to do business in the State of Michigan. The insurance carrier(s) must be an "A" best rating or better. The Academy may join with other public school academies to obtain insurance if the Academy finds that such an association provides economic advantages to the Academy, provided that each Academy maintains its identity as first named insured.

The Academy shall list the University Board and the University on the insurance policies as an additional insured on insurance coverage listed in (b), (c), (e) and (g) above. The Academy shall have a provision included in all policies requiring notice to the University, at least thirty (30) days in advance, upon termination or non-renewal of the policy or of changes in insurance carrier or policy limit changes. In addition, the Academy shall provide the University President copies of all insurance certificates and endorsements required by this Contract. The Academy shall also provide to the University President an entire copy of the insurance policies. The Academy may expend funds for payment of the cost of participation in an accident or medical insurance program to insure protection for pupils while attending school or participating in a school program or activity. Other insurance policies and higher minimum may be required depending upon academic offerings and program requirements.

The Academy understands that the University's insurance carrier periodically reviews the types and amounts of insurance coverage that the Academy must secure in order for the University to maintain insurance coverage for authorization and oversight of the Academy. In the event that the University's insurance carrier requests additional changes in coverage identified in this Section 11.4, the Academy agrees to comply with any additional changes in the types and amounts of coverage requested by the University's insurance carrier within thirty (30) days after notice of the insurance coverage change.

Section 11.5. Transportation. The Academy Board may enter into contract with other school districts or other persons, including municipal and county governments, for the transportation of the Academy students to and from school and for field trips. In addition, the Academy Board may use funds received from state school aid payments to pay for student transportation. In the event that the Academy Board contracts for transportation services, the Academy Board shall ensure that the company providing the transportation services is properly licensed in accordance with Applicable Law, and that the company conducts criminal background and history checks on its drivers and other personnel who have direct contact with pupils in accordance with the Code.

Section 11.6. Extracurricular Activities and Interscholastic Sports. The Academy is authorized to join any organization, association, or league, which has as its objective the promotion and regulation of sport and athletic, oratorical, musical, dramatic, creative arts, or other contests by or between pupils.

Section 11.7. Legal Liabilities and Covenants Not to Sue. The Academy and Academy Board members acknowledge and agree that they have no authority to extend the faith and credit of the University or to enter into a contract that would bind the University. The Academy also is

limited in its authority to contract by the amount of funds obtained from the state school aid fund, as provided hereunder, or from other independent sources. The Academy and Academy Board members hereby covenant not to sue the University Board, the University or any of its trustees, officers, employees, agents or representatives for any matters that arise under this Contract or otherwise. The University does not assume any obligation with respect to any Academy Director, employee, agent, parent, guardian, or independent contractor of the Academy, and no such person shall have the right or standing to bring suit against the University Board, the University or any of its Trustees, employees, agents, or independent contractors as a result of the issuing, termination or revocation of this Contract.

Section 11.8. Lease or Deed for Proposed Single Site(s). The Academy shall provide to the designee of the University Board copies of its lease or deed for the premises in which the Academy shall operate. For each approved School, a copy of the Academy's lease or deed and site information shall be incorporated into the Schedules.

Section 11.9. Occupancy and Safety Certificates. The Academy Board shall: (i) ensure that each School's physical facilities comply with all fire, health and safety standards applicable to schools; and (ii) possess the necessary occupancy and safety certificates for each School's physical facilities. The Academy Board shall not conduct classes at any School site or sites until the Academy has complied with this Section 11.9. Copies of these certificates for each School shall be incorporated into the Schedules.

Section 11.10. Deposit of Public Funds by the Academy. The Academy Board agrees to comply with Section 1221 of the Revised School Code, being MCL 380.1221, regarding the deposit of all public or private funds received by the Academy. Such deposit shall be made within three (3) business days after receipt of the funds by the Academy.

Section 11.11. Contract Administrator and Educational Management Company Agreements. The Academy may enter into an agreement with the Contract Administrator to perform certain functions as outlined in the agreement. The Academy may enter into a management agreement with Educational Management Company to contract out its administrative and/or educational personnel. The proposed Contract Administrator agreement and proposed management agreement(s) shall be submitted to the University President for review and shall be valid if not disapproved. Any subsequent amendments must be submitted to the University President for review and may be disapproved if the proposed Contract Administrator or management agreement amendment(s) violate either the Contract or Applicable Law.

Section 11.12. Required Provisions for Contract Administrator and Educational Management Company Agreements. The Contract Administrator agreement and any educational management company agreement entered into by the Academy must contain the following provisions:

"Indemnification of Grand Valley State University. The parties acknowledge and agree that the Grand Valley State University Board of Trustees, Grand Valley State University and its members, officers, employees, agents or representatives are deemed to be third party beneficiaries for purposes of this Agreement. As third party beneficiaries, the parties hereby

promise to indemnify and hold harmless Grand Valley State University Board of Trustees, Grand Valley State University and its members, officers, employees, agents or representatives from all claims, demands, or liability, including attorney fees, and related expenses, on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other losses of any kind whatsoever and not caused by the sole negligence of Grand Valley State University, which arise out of or are in any manner connected with Grand Valley State University Board's approval of the urban high school academy application, the University Board's consideration of or issuance of a Contract, the Academy's preparation for and operation of a public school, or which are incurred as a result of the reliance by Grand Valley State University and its Board of Trustees members, officers, employees, agents or representatives upon information supplied by the Academy or [Contract Administrator] [Educational Management Company], or which arise out of the failure of the Academy to perform its obligations under the Contract issued to the Academy by Grand Valley State University Board of Trustees. The parties expressly acknowledge and agree that Grand Valley State University and its Board of Trustee members, officers, employees, agents or representatives may commence legal action against either party to enforce its rights as set forth in this Agreement."

"Revocation or Termination of Contract. If the Academy's Contract issued by the Grand Valley State University Board of Trustees is revoked or terminated, this Agreement shall automatically terminate on the same date as the Academy's Contract is revoked or termination without further action of the parties."

"Compliance with Academy's Contract. The [Contract Administrator] [Educational Management Company] agrees to perform its duties and responsibilities under this Agreement in a manner that is consistent with the Academy's obligations under the Academy's Contract issued by Grand Valley State University Board of Trustees. The provisions of the Academy's Contract shall supersede any competing or conflicting provisions contained in this Agreement."

Section 11.13. Incompatible Public Offices and Conflicts of Interest Statutes. Pursuant to Sections 522(3)(e) and (f), the Academy shall comply with the Incompatible Public Offices statute, Act No. 566 of the Public Acts of 1978, being MCL 15.181 to 15.185 of the Michigan Compiled Laws, and the Contracts of Public Servants With Public Entities statute, Act No. 371 of the Public Acts of 1968, being MCL 15.321 to 15.330 of the Michigan Compiled Laws. The Academy Board shall ensure compliance with Applicable Law relating to conflicts of interest. Notwithstanding any other provision of this Contract, the following shall be deemed a prohibited conflict of interest for purposes of this Contract:

(a) An individual simultaneously serving as an Academy Board member and an owner, officer, director, employee or paid consultant of an Educational Management Company that has an agreement with the Academy;

(b) An individual simultaneously serving as an Academy Board member and an Academy employee;

(c) An individual simultaneously serving as an Academy Board member and an owner, officer, director, employee or paid consultant of the Contract Administrator;

(d) An individual simultaneously serving as an Academy Board member and a independent contractor to the Academy;

(e) An individual simultaneously serving as an Academy Board member and as a member of the governing board of another public school; and

(f) An individual simultaneously serving as an Academy Board member and a University employee or paid consultant.

Section 11.14. Certain Familial Relationships Prohibited. No person shall be eligible to serve as an Academy Board member if the person's spouse, child, parent, or sibling has: (i) an ownership interest in the Educational Management Company, the Contract Administrator or the Applicant; or (ii) if the person's spouse, child, parent, or sibling is in a managerial, administrative or officer position with the Educational Management Company, Contract Administrator or the Applicant.

Section 11.15. Dual Employment Positions Prohibited. Any person working at the Academy is prohibited by law from being employed at the Academy in more than one full-time position and simultaneously being compensated for each position.

Section 11.16. Information Available to the Public and University.

(a) Information to be provided by the Academy. The Academy shall make information concerning its operation and management, including without limitation information describing the staff responsibilities at each School, available to the public and the University in the same manner and to the same extent as is required for school districts under Applicable Law.

(b) Information to be provided by Educational Management Company. The agreement between the Academy and the Educational Management Company shall contain a provision requiring the Educational Management Company to make information concerning the operation and management of the Academy, including without limitation information describing the staff responsibilities at each School, available to the Academy as deemed necessary by the Academy Board in order to enable the Academy to fully satisfy its obligations under subparagraph (a).

## ARTICLE XII

### GENERAL TERMS

Section 12.1. Notices. Any and all notices permitted or required to be given hereunder shall be deemed duly given; (i) upon actual delivery, if delivery by hand; or (ii) upon receipt by the transmitting party or confirmation or answer back if delivery is by telex or telegram; or (iii) upon delivery into United States mail if delivery is by postage paid first class mail. Each such notice shall be sent to the respective party at the address indicated below or to any other person or address as the respective party may designate by notice delivered pursuant hereto:

If to Grand Valley State University Board of Trustees:

Charter Schools Office Director  
1 Campus Drive  
Allendale, MI 49401

If to Academy: The Public School Academies of Detroit  
500 Woodward Avenue  
Suite 4000  
Detroit, MI 48226

Section 12.2. Severability. If any provision in this Contract is held to be invalid or unenforceable, it shall be ineffective only to the extent of the invalidity, without affecting or impairing the validity and enforceability of the remainder of the provision or the remaining provisions of this Contract. If any provision of this Contract shall be or become in violation of any local, state or federal law, such provision shall be considered null and void, and all other provisions shall remain in full force and effect.

Section 12.3. Successors and Assigns. The terms and provisions of this Contract are binding on and shall inure to the benefit of the parties and their respective successors and permitted assigns.

Section 12.4. Entire Contract. This Contract sets forth the entire agreement between the University Board and the Academy with respect to the subject matter of this Contract. All prior application materials, contracts, representations, statements, negotiations, understandings, and undertakings, are superseded by this Contract.

Section 12.5. Assignment. This Contract is not assignable by either party.

Section 12.6. Non-Waiver. Except as provided herein, no term or provision of this Contract shall be deemed waived and no breach or default shall be deemed excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. No consent by any party to, or waiver of, a breach or default by the other, whether expressed or implied, shall constitute a consent to, waiver of, or excuse for any different or subsequent breach or default.

Section 12.7. Indemnification.

(a) Academy Indemnification. The Academy agrees to indemnify and hold the University Board, the University and its Board of Trustees members, officers, employees, agents or representatives harmless from all claims, demands, or liability, including attorney fees, and related expenses, on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other losses of any kind whatsoever and not caused by the sole negligence of the University, which arise out of or are in any manner connected with the University Board's receipt, consideration or approval of the Application, the University Board's approval of the Method of Selection Resolution or the Authorizing Resolution, legal challenges to the validity of Part 6c of the Code or actions taken by the University Board as an authorizing body under Part 6c of the Code, the University Board's consideration of or issuance of a Contract, the Academy's

preparation for and operation of a public school, or which are incurred as a result of the reliance of the University Board, the University and its Board of Trustees members, officers, employees, agents or representatives upon information supplied by the Academy, or which arise out of the failure of the Academy to perform its obligations under this Contract. The foregoing provision shall not be deemed a relinquishment or waiver of any kind of Section 7 of the Governmental Liability for Negligence Act, being Act No. 170, Public Acts of Michigan, 1964.

(b) Applicant Indemnification. As part of the Application, the Applicant has entered into an Indemnification Agreement with the University Board and has agreed, under certain conditions, to indemnify and hold harmless the University Board, the University and its Board of Trustees members, officers, employees, agents and representatives. Under the Indemnification Agreement, the Applicant's indemnity obligation commenced on the date the Application was approved by the University Board, and shall continue for a period of two years following the date the University Board issued the Contract to the Academy. The Applicant's Indemnification Agreement contained in the Application is hereby incorporated into these Terms and Conditions and shall be considered a part of this Contract.

Section 12.8. Construction. This Contract shall be construed fairly as to both parties and not in favor of or against either party, regardless of which party prepared the Contract.

Section 12.9. Force Majeure. If any circumstances occur which are beyond the control of the parties, which delay or render impossible the obligations of one or both of the parties, the parties' obligations to perform such services shall be postponed for an equivalent period of time or shall be canceled, if such performance has been rendered impossible by such circumstances.

Section 12.10. No Third Party Rights. This Contract is made for the sole benefit of the Academy and the University Board and no other person or entity, including without limitation, the Applicant, the Educational Management Company or the Contract Administrator. Except as otherwise provided, nothing in this Contract shall create or be deemed to create a relationship between the parties hereto, or either of them, and any third person, including a relationship in the nature of a third party beneficiary or fiduciary.

Section 12.11. Non-agency. It is understood that the Academy is not the agent of the University.

Section 12.12. Governing Law. This Contract shall be governed and controlled by the laws of the State of Michigan as to interpretation, enforcement, validity, construction, and effect, and in all other respects.

Section 12.13. Counterparts. This Contract may be executed in any number of counterparts. Each counterpart so executed shall be deemed an original, but all such counterparts shall together constitute one and the same instrument.

Section 12.14. Initial Term of Contract and Renewal.

(a) Staggered Terms of Contract. This Contract contains the University Board's authorization for the Academy to operate the Schools. The Academy is authorized to operate the Schools beginning on the dates set forth Schedule 11.

If the Academy satisfies the conditions set forth below in Section 12.14(b) for each School, the Contract authorization for each School shall be in effect for ten (10) years and shall expire on June 30<sup>th</sup> of the tenth year after the issuance of the Contract, unless sooner revoked or terminated according to the terms hereof.

(b) Termination of Contract During Initial Term of Contract. Consistent with the procedures set forth in this Section 12.14(b), this Contract will terminate if any of the following does not occur prior to the first day the Academy opens a school building/site for operation to receive State School Aid payments, or on the date designated by the University, if other than the first day the Academy opens:

- (i) The Academy shall provide to the Charter Schools Office Director a copy of the Academy's agreements with any Educational Management Company and the Contract Administrator. The terms and conditions of the agreements must be acceptable to the University President.
- (ii) The Academy shall provide to the Charter Schools Office Director a copy of the Academy's real property leases or other agreements for the School site or sites set forth in the Schedules.
- (iii) The Academy, through legal counsel, shall provide a legal opinion to the Charter Schools Office Director confirming that the Academy Board's approval and execution of any real property lease or other agreement with Educational Management Company, the Contract Administrator, the Applicant or an affiliate of the Applicant complies with the Contracts of Public Servants with Public Entities statute, MCL 15.321 et seq.
- (iv) The Academy shall provide to the Charter Schools Office Director, if applicable, a copy of an AHERA asbestos plan and lead based paint survey for the School site or sites set forth in the Schedules.
- (v) The Academy shall provide to the Charter Schools Office Director, if applicable, a copy of a current boiler inspection/ approval for the School site or sites set forth in the Schedules.
- (vi) The Academy shall provide documentation to the Charter Schools Office Director confirming that the Academy has received occupancy approval from the Michigan Department of Consumer and Industry Services' Office of Fire Safety for the School site or sites set forth in the Schedules.
- (vii) The Academy shall provide documentation to the Charter Schools Office Director that it has obtained a short-term cash flow loan to cover the initial cost of operations for the initial academic year. The Academy shall comply with section 1225 of the Revised School Code and the Revised Municipal Finance Act with respect to approving and obtain such funds.

- (viii) Any additional financial information or documentation requested by the University President.

The Academy shall notify the Charter Schools Office in writing following completion of the conditions set forth in this Section 12.14(b). For good cause, the Charter Schools Office Director may extend the deadlines set forth above. If the Charter Schools Office Director determines that the Academy has not satisfied the conditions set forth in this Section 12.14(b), the Charter Schools Office Director shall issue a Contract termination letter to the Academy for failing to meet certain conditions set forth in this Section 12.14(b). The issuance of the termination letter by the Charter Schools Office Director shall automatically terminate this Contract without any further action by either the University Board or the Academy Board. Upon issuance of the termination letter, the Charter Schools Office Director shall notify the Superintendent of Public Instruction and the Michigan Department of Education that the Contract has been terminated.

- (c) Contract Renewal. The University Board retains the right to determine whether or not the Academy has met "substantial compliance" with all Contract requirements, including but not limited to contractual operational compliance and the attainment of educational goals.

Section 12.15. Survival of Provisions. The terms, provisions, and representations contained in Section 11.4, Section 11.7, Section 11.12 and Section 12.7, and any other provision of this Contract that by their sense and context are intended to survive termination of this Contract shall survive.

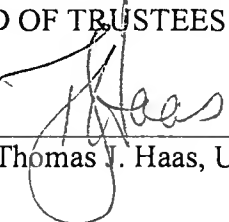
Section 12.16. Termination of Responsibilities. Upon termination or revocation of this Contract, the University Board and its designees shall have no further obligations or responsibilities under this Contract to the Academy or any other person or persons in connection with this Contract.

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As the designated representative of the Grand Valley State University Board of Trustees, I hereby authorize this issuance of a Contract to the Academy to operate one or more urban high school academies on the dates set forth above in Section 12.14(a).

GRAND VALLEY STATE UNIVERSITY  
BOARD OF TRUSTEES

By:   
Thomas J. Haas, University President

As the authorized representative of the Academy, I hereby certify that the Academy is able to comply with the Contract and all Applicable Law, and that the Academy, through its governing board, has approved and agreed to comply with and be bound by this Contract.

THE PUBLIC SCHOOL ACADEMIES OF DETROIT

By: \_\_\_\_\_  
Chairperson, Board of Directors

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As the designated representative of the Grand Valley State University Board of Trustees, I hereby authorize this issuance of a Contract to the Academy to operate one or more urban high school academies on the dates set forth above in Section 12.14(a).

GRAND VALLEY STATE UNIVERSITY  
BOARD OF TRUSTEES

By \_\_\_\_\_

Thomas J. Haas, University President

As the authorized representative of the Academy, I hereby certify that the Academy is able to comply with the Contract and all Applicable Law, and that the Academy, through its governing board, has approved and agreed to comply with and be bound by this Contract.

THE PUBLIC SCHOOL ACADEMIES OF DETROIT

By \_\_\_\_\_

  
Chairperson, Board of Directors

Not Public  
B-1W

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**TERMS AND CONDITIONS  
OF CONTRACT**

**DATED: DECEMBER 14, 2007**

**ISSUED BY**

**THE GRAND VALLEY STATE UNIVERSITY BOARD OF TRUSTEES  
(AUTHORIZING BODY)**

**TO**

**THE PUBLIC SCHOOL ACADEMIES OF DETROIT**

**CONFIRMING THE STATUS OF**

**THE PUBLIC SCHOOL ACADEMIES OF DETROIT**

**AS AN**

**URBAN HIGH SCHOOL ACADEMY**

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## **Contract to Charter a Urban High School Academy**

Pursuant to Part 6c of the Revised School Code ("Code"), being Sections 380.521 to 380.529 of the Michigan Compiled Laws, the Grand Valley State University Board of Trustees ("University Board") issues a contract to The Public School Academies of Detroit (the "Academy"), to be effective December 14, 2007, confirming the Academy's status as an urban high school academy in this State. The Parties agree that the issuance of this Contract is subject to the following Terms and Conditions:

### **ARTICLE I**

#### **DEFINITIONS**

Section 1.1. Certain Definitions. For purposes of this Contract, and in addition to the terms defined throughout this Contract, each of the following words or expressions, whenever capitalized, shall have the meaning set forth in this section:

- a) **Academy** means the Michigan non-profit corporation authorized by this Contract. For purposes of this Contract, the term **Charter School** shall mean **Urban High School Academy**.
- b) **Academy Board** means the Board of Directors of the Academy authorized by this Contract. **Academy Board member** or **Academy Director** means an individual who is a member of the Academy Board, whether in the past, present or future.
- c) **Applicable Law** means all state and federal law applicable to urban high school academies.
- d) **Applicant** means the entity that submitted the urban high school academy application to the University for the establishment of the Academy.
- e) **Application** means the urban high school academy application and supporting documentation submitted to the University for the establishment of the Academy.
- f) **Authorizing Resolution** means a resolution adopted by the University Board approving the Academy's Application, appointing the initial Academy Board members and issuing a Contract to the Academy.
- g) **Code** means the Revised School Code, Act No. 451 of the Public Acts of 1976, as amended, being Sections 380.1 to 380.1852 of the Michigan Compiled Laws.
- h) **Contract Administrator** means the entity that has been granted, pursuant to section 529 of the Code, certain responsibilities by the

Academy Board and University Board, as set forth in this Contract. In the event that the Contract Administrator performs services that meet the Code's definition of the types of services provided by an Educational Management Company, the Contract Administrator shall comply with the Code requirements for an Educational Management Company.

- i) **Contract** means, in addition to the definition set forth in the Code, the Terms and Conditions and the Schedules.
- j) **Educational Management Company** means a person or entity that meets the Code's definition of an Educational Management Company, including the entity that has entered, or entities that may in the future enter, into an agreement with the Academy to provide comprehensive educational, administrative, management, or instructional services or staff to the Academy.
- k) **Fund Balance Deficit** means the Academy has more liabilities than asset at the end of any given fiscal year, and includes any fiscal year where the Academy would have had a budget deficit but for a financial borrowing from, or monetary contribution by, the Contract Administrator, an Educational Management Company or other person or entity to the Academy. If the Academy receives a gift or grant of money or financial support from the Contract Administrator, an Educational Management Company or other person or entity that does not require repayment by the Academy, and is not conditioned upon the actions or inactions of the Academy Board, then such gift or grant shall not constitute a financial borrowing or contribution for purposes of determining a Fund Balance Deficit.
- l) **Master Calendar of Reporting Requirements (MCRR)** means the compliance certification duties required of the Academy by the University Board. The University Board may amend the MCRR each fiscal year or at such other times as deemed appropriate by the University President. These changes shall be automatically incorporated into the Contract and shall be exempt from the Contract amendment procedures under Article IX of these Terms and Conditions.
- m) **Method of Selection Resolution** means the resolution adopted by the University Board providing for the method of selection, length of term, number of Academy Board members, qualification of Board Academy members and other pertinent provisions related to the Academy Board.

- n) **Schedules** mean the schedules incorporated into and part of the Terms and Conditions.
- o) **Terms and Conditions** means this document.
- p) **University** means Grand Valley State University established pursuant to Article VIII, Sections 4 and 6 of the Michigan Constitution of 1963 and MCL 390.841 *et seq.*
- q) **University Board** means the Grand Valley State University Board of Trustees.
- r) **University Charter Schools Hearing Panel or Hearing Panel** means such person(s) as designated by the University President.
- s) **University Charter Schools Office or CSO** means the office the University Board, by issuance of this Contract, hereby designates as the point of contact for urban high school academy applicants and urban high school academies authorized by the University Board. The University Charter Schools Office is also responsible for managing, implementing, and overseeing the University Board's responsibilities with respect to the Contract.
- t) **University Charter Schools Office Director or CSO Director** means the person designated by the University President to administer the operations of the University Charter Schools Office.
- u) **University President** means the President of Grand Valley State University or his or her designee.

Section 1.2. Schedules. All Schedules to this Contract are part of this Contract.

Section 1.3. Statutory Definitions. Statutory terms defined in the Code shall have the same meaning in this Contract.

Section 1.4. Application. Portions of the Applicant's Application have been incorporated into this Contract. In the event that there is an inconsistency or dispute between materials in the Application and the Contract, the language or provisions in the Contract shall control.

Section 1.5. Conflicting Contract Provisions. In the event that there is a conflict between language contained in the provisions of this Contract, the Contract shall be interpreted as follows: (i) the Method of Selection Resolution shall control over any other conflicting language in the Contract; (ii) the Authorizing Resolution shall control over any other conflicting language in the Contract with the exception of language in the Method of Selection Resolution; (iv) the Terms and Conditions shall control over any

other conflicting language in the Contract with the exception of language in the Method of Selection Resolution and the Authorizing Resolution; and (v) the Articles of Incorporation shall control over any other conflicting language in the Contract with the exception of language in the Method of Selection Resolution, Authorizing Resolution and these Terms and Conditions.

## **ARTICLE II**

### **ROLE OF GRAND VALLEY STATE UNIVERSITY BOARD OF TRUSTEES AS AUTHORIZING BODY**

Section 2.1. University Board Resolutions. For purposes of this Contract, the University Board has adopted the following resolutions:

(a) Method of Selection Resolution. The University Board has adopted the Method of Selection Resolution which is incorporated into this Contract as part of Schedule 1. At anytime and at its sole discretion, the University Board may amend the Method of Selection. Upon University Board approval, changes to the Method of Selection Resolution shall automatically be incorporated into this Contract and shall be exempt from the amendment procedures under Article IX of the Terms and Conditions.

(b) Authorizing Resolution. The University Board has adopted the Authorizing Resolution which is incorporated into this Contract as part of Schedule 1.

Section 2.2. Method for Monitoring Academy's Compliance with Applicable Law and Performance of its Targeted Educational Outcomes. The University Board has the responsibility to oversee the Academy's compliance with the Contract and all Applicable Law. The Academy shall perform the compliance certification duties required by the University Board as outlined in the Contract and MCRR incorporated into this Contract as Schedule 13. Additionally, the Academy shall be responsible for the following:

- a) The Academy shall provide the Charter Schools Office with copies of reports and assessments concerning the educational outcomes achieved by pupils attending the Academy and shall provide necessary approvals for the Charter Schools Office to access electronic information received or stored by the State of Michigan including, but not limited to the Department of Education or other agency authorized by the State to collect school data.
- b) In the event that the University President determines that the Academy's educational outcomes should be reviewed to help determine if the Academy is meeting its educational goals incorporated into this Contract as Schedule 4, the University President, at his or her discretion, may require an objective evaluation of student performances by an educational consultant, acceptable to both the Academy and the University President.

The Academy shall pay for the expense of the evaluation. In addition, at any time, the University President may require an evaluation of student performance to be selected by and at the expense of the University. The Academy shall cooperate with the evaluation, including any student testing required.

- c) The Academy shall submit audited financial reports, including auditor's management letters and any exceptions noted by the auditors, to the University Charter Schools Office. The reports shall be submitted to the University Charter Schools Office within ninety (90) days after the end of the Academy's fiscal year.
- d) The Academy shall provide the University Charter Schools Office with a copy of the proposed annual budget for the upcoming fiscal year of the Academy no later than July 1<sup>st</sup>. The Academy Board is responsible for establishing, approving and amending the annual budget in accordance with the Uniform Budgetary and Accounting Act, MCL 141.421 *et seq.*, and for providing all amendments and revisions to the University Charter Schools Office following Academy Board approval.
- e) The Academy shall provide to the University Charter Schools Office minutes of all Academy Board meetings no later than fourteen (14) days after such meeting.
- f) Within ten (10) days of receipt, the Academy shall notify the University Charter Schools Office of correspondence received from the Department of Education or State Board of Education that requires a written or formal response.
- g) Within ten (10) days of receipt, the Academy shall report to the University Charter Schools Office and the University Counsel Office any litigation or formal proceedings alleging violation of Applicable Law or contractual agreement against the Academy, its officers, employees, agents, and/or contractors.
- h) The Academy shall permit review of the Academy's records and inspection of its premises at any time by representatives of the University. Normally, such inspections shall occur during the Academy's hours of operation and after advance notice to the Academy.

Section 2.3. Reimbursement of University Board Costs. The Academy shall pay the University Board an administrative fee of 3% of the state school aid payments received by the Academy. This fee shall be retained by the University Board from each state school aid payment received by the University Board for forwarding to the Academy. This fee shall compensate the University Board for overseeing the Academy's

compliance with the Contract and all Applicable Law. The University's use of the administrative fee shall be governed by the Code.

Section 2.4. University Board as Fiscal Agent for the Academy. The University Board is the fiscal agent for the Academy. The University Board shall promptly within three (3) business days, forward to the Academy all state school aid funds or other public or private funds received by the University Board for the benefit of the Academy. The University Board shall retain any amount owed to the University Board by the Academy pursuant to this Contract. For purposes of this section, the responsibilities of the University Board, the State of Michigan, and the Academy are set forth in the Fiscal Agent Agreement incorporated herein as Schedule 7.

Section 2.5. Authorization of Employment. The Academy may employ or contract with personnel. If the Academy contracts for personnel with Educational Management Company, the University's authorization shall not be effective unless and until the agreement complies with Section 11.12 of these Terms and Conditions. With respect to Academy employees, the Academy shall have the power and responsibility to (i) select and engage employees; (ii) pay their wages; (iii) dismiss employees; and (iv) control the employees' conduct, including the method by which the employee carries out his or her work. An employee hired by the Academy shall be an employee of the Academy for all purposes and not an employee of the University for any purpose. The Academy shall be responsible for carrying worker's compensation insurance and unemployment insurance for its employees.

Section 2.6. Financial Obligations of the Academy are Separate from the State of Michigan, University Board and the University. Any contract, mortgage, loan or other instrument of indebtedness entered into by the Academy and a third party shall not in any way constitute an obligation, either general, special, or moral, of the State of Michigan, the University Board, or the University. Neither the full faith and credit nor the taxing power of the State of Michigan or any agency of the State, nor the full faith and credit of the University Board or the University shall ever be pledged for the payment of any Academy contract, mortgage, loan or other instrument of indebtedness.

Section 2.7. Academy Has No Power To Obligate or Bind State of Michigan, University Board or the University. The Academy has no authority whatsoever to enter into any contract or other agreement that would financially obligate the State of Michigan, University Board or the University, nor does the Academy have any authority whatsoever to make any representations to lenders or third parties, that the State of Michigan, University Board or the University in any way guarantee, are financially obligated, or are in any way responsible for any contract, mortgage, loan or other instrument of indebtedness entered into by the Academy.

Section 2.8. Contract Administrator; Limits on Authority. The Code permits the University Board and the Academy to define the role of the Contract Administrator. In accordance with section 529(c) of the Code, MCL 380.529(c), the Contract Administrator

shall have such authority as delegated by the Academy Board to carryout its duties and responsibilities, as further defined in the agreement between the Academy and the Contract Administrator. Notwithstanding any provision agreed to by the Contract Administrator and the Academy, the Contract Administrator shall not be authorized to carry out any duty or responsibility that cannot be legally delegated by the Academy to the Contract Administrator. For purposes of this Contract, non-delegable duties shall include the following: (i) selection and nomination of individuals to serve on the Academy Board; (ii) approval or amendment of this Contract; (iii) voluntary termination of this Contract by the Academy Board; (iv) the decision to dissolve and wind-up the business affairs of the Academy and (v) expulsion of Academy students.

### **ARTICLE III**

#### **REQUIREMENT THAT ACADEMY ACT SOLELY AS GOVERNMENTAL AGENCY OR ENTITY AND POLITICAL SUBDIVISION**

Section 3.1. Governmental Agency or Entity and Political Subdivision. The Academy shall act exclusively as a governmental entity and political subdivision.

Section 3.2. Other Permitted Activities. Nothing in this Contract shall prohibit the Academy from engaging in other lawful activities that are not in derogation of the Academy's status as a public school or that would not jeopardize the eligibility of the Academy for state school aid funds. Subject to Section 2.5 of Article II of the Terms and Conditions, the Academy may enter into agreements with other public schools, public school academies, governmental units, businesses, community and nonprofit organizations where such agreements contribute to the effectiveness of the Academy or advance education in this state.

### **ARTICLE IV**

#### **PURPOSE**

Section 4.1. Academy's Purpose. The Academy Board shall identify the purpose or mission of the Academy. Any subsequent change to the Academy's purpose or mission shall be carried out by amendment in accordance with Article IX of these Terms and Conditions. The Academy's stated purpose or mission shall be incorporated as part of Schedule 4.

### **ARTICLE V**

#### **CORPORATE STRUCTURE OF THE ACADEMY**

Section 5.1. Articles of Incorporation. Unless amended pursuant to Section 9.2 of Article IX herein, the Articles of Incorporation of the Academy, as set forth in Schedule 2, shall be the Articles of Incorporation of the Academy. The Academy Board

represents to the University Board that Schedule 2 includes all amendments to the Academy's Articles of Incorporation as of the date set forth above.

Section 5.2. Bylaws. Unless amended pursuant to Section 9.3 of Article IX herein, the Bylaws of the Academy, as set forth in Schedule 3, shall be the Bylaws of the Academy. The Academy Board represents to the University Board that Schedule 3 includes all amendments to the Academy's Bylaws as of the date set forth above.

## ARTICLE VI

### OPERATING REQUIREMENTS

Section 6.1. Governance Structure. The Academy shall be organized and administered under the direction of the Academy Board and pursuant to the governance structure as set forth in its Bylaws. The Academy's Board of Directors shall meet at least six times per fiscal year, unless another schedule is mutually agreed upon by the University President and the Academy.

Section 6.2. Contributions and Fund Raising. The Academy may solicit and receive contributions and donations as permitted by law. No solicitation shall indicate that a contribution to the Academy is for the benefit of the University. The University shall not be required to receive any contributions or donations for the benefit of the Academy. If the University receives contributions or donations for the benefit of the Academy, it shall forward such funds to the Academy within three (3) business days of receipt.

Section 6.3. Educational Goals and Programs. The Academy shall pursue the educational goals and programs identified in Schedule 4. Such goals and programs may be amended pursuant to Section 9.1 of Article IX of the Terms and Conditions.

Section 6.4. Curriculum. The Academy shall have flexibility in developing, realigning, and implementing the curriculum identified in Schedule 5. Any changes to the curricula shall be administered pursuant to Section 9.1 of Article IX of the Terms and Conditions, and such proposed curricula shall be designed to achieve the Academy's educational goals and State's educational assessment objectives.

Section 6.5. Methods of Accountability. The Academy shall evaluate pupils' work based on the assessment strategies identified in Schedule 8 and listed below. The Academy shall provide the University Charter Schools Office with copies of reports, assessments and test results concerning the following:

- a) educational outcomes achieved by pupils attending the Academy and other reports reasonably requested by the University Charter Schools Office;



- b) an assessment of student performance at the end of each academic school year or at such other times as the University Board may reasonably request;
- c) an annual education report in accordance with the Code;
- d) an annually administered nationally recognized norm-referenced achievement test to each grade or a program of testing approved by the University Charter Schools Office Director; and
- e) all tests required under Applicable Law.

The University Board may use such reports, assessments and test results in making its decision to continue, suspend, terminate or revoke the Contract.

Section 6.6. Staff Responsibilities. Subject to Section 2.5 of Article II of the Terms and Conditions, the University Board authorizes the Academy to employ or contract with personnel as outlined in Schedule 6.

Section 6.7. Admission Policy. The Academy shall comply with all admissions policies and criteria required by laws applicable to urban high school academies under the Code. A copy of the Academy's admission policies and criteria are incorporated into this Contract as Schedule 9.

Section 6.8. School Calendar/School Day Schedule. The Academy shall comply with all minimum standards governing the length of the school term, minimum number of days and hours of instruction required by law applicable to urban high school academies under the Code. The Academy agrees to make available to the CSO Office a copy of the School Calendar/School Day Schedule for each academic school year no later than July 1<sup>st</sup>. A copy of the School Calendar/School Day Schedule shall be automatically incorporated into this Contract as Schedule 10 without the need for an amendment under Article IX of the Terms and Conditions.

Section 6.9. Age/Grade Range of Pupils Enrolled. Within five (5) years from commencing operations, the Academy shall offer grades 9 through 12. The Academy's current Age/Grade Range of Pupils Enrolled is set forth in Schedule 11. The Academy may add additional grades and other programs in the future, pursuant to Section 9.1 of Article IX of the Terms and Conditions.

Section 6.10. Annual Financial Audit. The Academy shall conduct an annual financial audit prepared and reviewed by an independent certified public accountant in accordance with generally accepted governmental auditing principles.

Section 6.11. Address and Description of Proposed Site(s). Pursuant to section 524(1) of the Code, MCL 380.524(1), the University Board authorizes the Academy to operate the configuration of grades identified in Schedule 11 at the site or sites identified

in Schedule 12. The proposed addresses and descriptions of the Academy's proposed site or sites, as well as the address of each Academy's central administrative office or offices, are set forth in Schedule 12. For purposes of this Contract, the Academy shall be in violation of the single site restrictions set forth in the Code if the Academy operates at any site or sites without first obtaining the written authorization of the University Board.

Following Academy Board and University Board approval, proposed changes to the address and description of any Academy site or sites, including the addition of any new site or sites that constitute a contract for purposes of section 524(1) of the Code, MCL 380.524(1), shall be incorporated as an amendment to Schedule 12. Notwithstanding any other provision in this Contract, the Academy shall not enroll more than 125 students in any particular grade at any site or sites constituting an additional contract under section 524(1) of the Code, MCL 380.524(1), without prior written authorization from the University Board.

Section 6.12. Accounting Standards. The Academy shall at all times comply with generally accepted public sector accounting principles.

Section 6.13. Placement of University Student Interns. The Academy may be a placement site for University students who are in education or other pre-professionals in training to serve in public schools. Such placement shall be without charge to the University and subject to other terms and conditions as the Academy and the University agree.

Section 6.14. Disqualified Organizational or Contractual Affiliations. The Academy shall comply with all state and federal law applicable to public schools concerning church-state issues. To the extent disqualified under the state or federal constitutions, the Academy shall not be organized by a church or other religious organization and shall not have any organizational or contractual affiliation with or constitute a church or other religious organization. Nothing in this Section shall be deemed to diminish or enlarge the civil and political rights, privileges and capacities of any person on account of his or her religious belief.

## **ARTICLE VII**

### **TUITION PROHIBITED**

Section 7.1. Tuition Prohibited; Fees and Expenses. The Academy shall not charge tuition. The Academy may impose fees and require payment of expenses for activities of the Academy where such fees and payments are not prohibited by law.

## ARTICLE VIII

### COMPLIANCE WITH PART 6C OF THE CODE AND OTHER LAWS

Section 8.1. Compliance with Part 6c of the Code. The Academy shall comply with Part 6c and other parts of the Code that apply to urban high school academies. With the exception of Part 6a of the Code, the Academy shall comply with other provisions of the Code applicable to public school academies.

Section 8.2. Compliance with State School Aid Act. In order to assure that funds are available for the education of pupils, the Academy shall comply with all applicable provisions of the State School Aid Act of 1979, as amended from time to time. The Academy may expend funds from the State School Aid Act for any purpose permitted by the State School Aid Act of 1979 and may enter into contracts and agreements determined by the Academy as consistent with the purposes for which the funds were appropriated.

Section 8.3. Open Meetings Act. Pursuant to Section 522(3)(a) of the Code, the Academy Board shall conduct all of its meetings in accordance with the Michigan Open Meetings Act, Act No. 267 of the Public Acts of 1976, as amended, being Sections 15.261 to 15.275 of the Michigan Compiled Laws.

Section 8.4. Freedom of Information Act. Pursuant to Section 522(3)(b) of the Code, the records of the Academy shall be records subject to the provisions of the Michigan Freedom of Information Act ("FOIA"), Act No. 442 of the Public Acts of 1976, as amended, being Sections 15.231 to 15.246 of the Michigan Compiled Laws. The Academy Board shall designate a freedom of information coordinator to assure compliance with FOIA and other applicable law providing for public disclosure or for protection of privacy.

Section 8.5. Public Employees Relation Act. Pursuant to Section 522(3)(c) of the Code, the Academy shall comply with Act No. 336 of the Public Acts of 1947, being Sections 423.201 to 423.217 of the Michigan Compiled Laws. Organizational efforts and collective bargaining agreements, if any, with employees of the Academy shall be the responsibility of the Academy.

Section 8.6. Prevailing Wage on State Contracts. Pursuant to Section 522(3)(d), the Academy shall comply with the Prevailing Wage on State Contracts statute, Act No. 166 of the Public Acts of 1965, being Sections 408.551 to 408.558 of the Michigan Compiled Laws.

Section 8.7. Uniform Budget and Accounting Act. Pursuant to Section 522(3)(g), the Academy shall comply with the Uniform Budget and Accounting Act, Act No. 2 of the Public Acts of 1968, being MCL 141.421 to 141.440a.

Section 8.8. Revised Municipal Finance Act of 2001. Pursuant to Section 522(3)(h), the Academy shall comply with the Revised Municipal Finance Act of 2001, Act No. 34 of the Public Acts of 2001, being MCL 141.2101 to 141.2821 of the Michigan Compiled Laws.

Section 8.9. Non-discrimination. The Academy shall be separately responsible for compliance with applicable laws pertaining to equal opportunity and anti-discrimination laws such as the Elliott-Larsen Civil Rights Act, Act No. 453 of the Public Acts of 1976, as amended, being MCL 37.2101 to 37.2804, the Michigan Handicappers' Civil Rights Act, Act No. 22 of the Public Acts of 1976, as amended, being MCL 37.1101 to 37.1607, and Subtitle A of Title II of the Americans with Disabilities Act of 1990, Public Law 101-336, 42 USC & 12101 *et seq.* or any successor law.

Section 8.10. Other State Laws. The Academy shall comply with other state laws which are applicable to urban high school academies. Nothing in this Contract shall be deemed to apply any other state law to the Academy.

Section 8.11. Federal Laws. The Academy shall comply with federal laws which are applicable to urban high school academies. Nothing in this Contract shall be deemed to apply any other federal law to the Academy.

## ARTICLE IX

### AMENDMENT

Section 9.1. Process for Amending the Contract. Either party may propose changes in this Contract or may propose a meeting to discuss potential revision of this Contract. Except as provided in Sections 2.1, 5.1 and 6.11, the University Board delegates to its University President the review and approval of changes or amendments to this Contract. The Academy Board may delegate the same authority to the Academy Board President. The Contract shall be amended upon agreement and approval of the respective authorized designees.

Section 9.2. Process for Amending the Articles. The Academy Board, or any authorized designee of the Academy Board, may propose changes to the Academy's Articles of Incorporation. The Academy shall be authorized to make such changes to its Articles upon a majority vote of the University Board members attending a University Board meeting. Upon University Board approval, the Academy Board's authorized designee is authorized to file the amendment to the Academy's Articles of Incorporation with the Michigan Department of Labor and Economic Growth, Bureau of Commercial Services. Upon receipt of the filed amendment, the Academy shall forward the filed amendment to the University Charter Schools Office. The filed amendment shall be automatically incorporated into Schedule 2 of this Contract upon receipt of the amendment by the University Charter Schools Office. If the University identifies a provision in the Articles of Incorporation that violates or conflicts with this Contract, due

to a change in law or for other reasons, after approval has been given, it shall notify the Academy Board in writing and the Academy Board shall amend the Articles of Incorporation to make them consistent with the Contract. If the change is requested by the University, the University shall reimburse the Academy for the filing fees payable to the Michigan Department of Labor and Economic Growth.

Section 9.3. Process for Amending the Bylaws. The Academy Board shall submit proposed Bylaw changes to the Charter Schools Office, for review and comment, at least thirty (30) days prior to Academy Board adoption. The Academy's Bylaws, and any subsequent or proposed changes to the Academy's Bylaws, shall not violate or conflict with the Contract. If at any time the University identifies a provision in the Academy Board's Bylaws that violates or conflicts with Applicable Law or this Contract, the Academy Board's Bylaw shall be automatically void and the Academy Board shall amend the identified provision to be consistent with Applicable Law and the Contract. The amendment shall be automatically incorporated into Schedule 3 of the Contract upon receipt by the University Charter Schools Office of a duly authorized Academy Board bylaw change made in accordance with this Section 9.3.

## **ARTICLE X**

### **CONTRACT REVOCATION, SUSPENSION, AND TERMINATION**

Section 10.1. Statutory Grounds for Revocation. This Contract may be revoked by the University Board upon a determination by the University Board, pursuant to the procedures set forth in Section 10.3, that one or more of the following has occurred:

- a) Failure of the Academy to abide by and meet the educational goals set forth in this Contract;
- b) Failure of the Academy to comply with all Applicable Law;
- c) Failure of the Academy to meet generally accepted public sector accounting principles; or
- d) The existence of one or more other grounds for revocation as specified in this Contract.

Section 10.2. Other Grounds for Revocation. In addition to the statutory grounds for revocation set forth in Section 10.1, the University Board may, in its sole discretion, revoke this Contract pursuant to the procedures set forth in Section 10.3 upon a determination that one or more of the following has occurred:

- a) The Academy is insolvent, has been adjudged bankrupt, or has operated for one or more school fiscal year(s) with a Fund Balance Deficit;

- b) The Academy has insufficient enrollment to successfully operate a urban high school academy, or the Academy has lost more than twenty-five percent (25%) of its student enrollment from the previous school year;
- c) The Academy defaults in any of the terms, conditions, promises or representations contained in or incorporated into this Contract;
- d) The Academy files amendments to its Articles of Incorporation with the Michigan Department of Labor and Economic Growth, Bureau of Commercial Services without first obtaining University Board approval;
- e) The University discovers grossly negligent, fraudulent or criminal conduct by the Applicant, the Academy's directors, officers, employees or agents in relation to their performance under this Contract;
- f) The Applicant, the Academy's directors, officers or employees have provided false or misleading information or documentation to the University in connection with the University Board's approval of the Application, the issuance of this Contract, or the Academy's reporting requirements under this Contract or Applicable Law;
- g) The Academy fails to offer grades 9 through 12 within 5 years after commencing operations;
- h) The Academy violates the single site restrictions set forth in the Code or the Academy operates at a separate site or sites that constitutes the issuance of a contract under Section 524 of the Code, MCL 380.524, without the prior written authorization of the University Board; or
- i) The University Board, its trustees, officers, employees, agents or representatives are not included as third party beneficiaries under any educational management agreement entered into by the Academy for purposes of indemnifying such parties in accordance with Section 11.12 of the Terms and Conditions.

Section 10.3. University Board Procedures for Revoking Contract. The University Board's process for revoking the Contract is as follows:

- a) Notice of Intent to Revoke. The CSO Director or other University Representative, upon reasonable belief that such grounds for revocation of the Contract exist, shall notify the Academy Board of such grounds by issuing the Academy Board a Notice of Intent to Revoke for non-compliance with the Contract or Applicable Law. The Notice of Intent to Revoke shall be in writing and shall set forth in sufficient detail the alleged grounds for revocation.

- b) Academy Board's Response. Within thirty (30) days of receipt of the Notice of Intent to Revoke, the Academy Board shall respond in writing to the alleged grounds for revocation. The Academy Board's response shall be addressed to the CSO Director, and shall either admit or deny the allegations of non-compliance. If the Academy's response includes admissions of non-compliance with the Contract or Applicable Law, the Academy Board's response must also contain a description of the Academy Board's plan and time line for correcting the non-compliance with the Contract or Applicable Law. If the Academy's response includes a denial of non-compliance with the Contract or Applicable Law, the Academy's response shall include sufficient documentation or other evidence to support a denial of non-compliance with the Contract or Applicable Law. A response not in compliance with this section shall be deemed to be non-responsive. As part of its response, the Academy Board may request that a meeting be scheduled with the CSO Director prior to a review of the Academy Board's response.
- c) Plan of Correction. Within fifteen (15) days of receipt of the Academy Board's response or after a meeting with Academy Board representatives, whichever is sooner, the CSO Director shall review the Academy Board's response and determine whether a reasonable plan for correcting the deficiencies can be formulated. If the CSO Director determines that a reasonable plan for correcting the deficiencies set forth in the Notice of Intent to Revoke can be formulated, the CSO Director shall develop a plan for correcting the non-compliance ("Plan of Correction"). In developing a Plan of Correction, the CSO Director is permitted to adopt, modify or reject some or all of the Academy Board's response for correcting the deficiencies outlined in the Notice of Intent to Revoke. The Notice of Intent to Revoke shall be withdrawn if the CSO Director determines any of the following: (i) the Academy Board's denial of non-compliance is persuasive; (ii) the non-compliance set forth in the Notice of Intent to Revoke has been corrected by the Academy Board; or (iii) the Academy Board has successfully completed the Plan of Correction. In the event the Notice of Intent to Revoke is withdrawn, the CSO Director shall notify the Academy Board, in writing, of such withdrawal.
- d) Plan of Correction Shall Include Conditions to Satisfy University Board's Contract Reconstitution Obligation. As part of the Plan of Correction, the CSO Director shall reconstitute the Academy in an effort to improve student educational performance and to avoid interruption of the educational process. An attempt to improve student educational performance may include, but is not limited to, one of the following actions: (i) removal of 1 or more members of the Academy Board members; (ii) termination of at-will board appointments of 1 or more Academy Board members; (iii) withdrawal of Academy's authorization to contract with Educational Management

Company; or (iv) the appointment of a new Academy Board of Directors or a trustee to take over operations of the Academy.

- e) Request for Revocation Hearing. The CSO Director or other University Representative, may initiate a revocation hearing before the University Charter Schools Hearing Panel if the CSO Director determines that any of the following has occurred:
- i) the Academy Board has failed to timely respond to the Notice of Intent to Revoke as set forth in Section 10.3(b);
  - ii) the Academy Board's response to the Notice of Intent to Revoke is non-responsive;
  - iii) the Academy Board's response admits violations of the Contract or Applicable Law which the CSO Director deems cannot be remedied or cannot be remedied in an appropriate period of time, or for which the CSO Director determines that a Plan of Correction cannot be formulated;
  - iv) the Academy Board's response contains denials that are not supported by sufficient documentation or other evidence showing compliance with the Contract or Applicable Law;
  - v) the Academy Board has not complied with part or all of a Plan of Correction established in Section 10.3(c);
  - vi) the Academy Board has engaged in actions that jeopardize the financial or educational integrity of the Academy; or
  - vii) the Academy Board has been issued multiple or repeated Notices of Intent to Revoke.

The CSO Director or other University Representative shall send a copy of the Request for Revocation Hearing to the Academy Board at the same time the request is sent to the Hearing Panel. The Request for Revocation Hearing shall identify the reasons for revoking the Contract.

- f) Hearing before University Charter Schools Hearing Panel. Within thirty (30) days of the date of a Request for Revocation Hearing, the Hearing Panel shall convene a revocation hearing. The Hearing Panel shall provide a copy of the Notice of Hearing to the University Charter Schools Office and the Academy Board at least ten (10) days before the hearing. The purpose of the Hearing Panel is to gather facts surrounding the CSO Director's request for Contract revocation, and to make a recommendation to the University Board on whether the Contract should be revoked. The revocation hearing shall be held at a location, date and time as determined by the CSO Director or other University Representative. The hearing shall be transcribed by a court reporter and the cost of the court reporter shall be divided equally between the University and the Academy. The CSO Director or his or her designee, and the Academy Board or its designee, shall each have equal time to make their



presentation to the Hearing Panel. Although each party is permitted to submit affidavits and exhibits in support of their positions, the Hearing Panel will not hear testimony from any witnesses for either side. The Hearing Panel, may, however, question the CSO Director and one or more members of the Academy Board. Within thirty (30) days of the Revocation Hearing, the Hearing Panel shall make a recommendation to the University Board concerning the revocation of the Contract. In its discretion, the Hearing Panel may extend any time deadline set forth in this subsection. A copy of the Hearing Panel's recommendation shall be provided to the University Charter Schools Office and the Academy Board at the same time that the recommendation is sent to the University Board.

- g) University Board Decision. If the Hearing Panel's recommendation is submitted to the University Board at least fourteen (14) days before the University Board's next regular meeting, the University Board shall consider the Hearing Panel's recommendation at its next regular meeting and vote on whether to revoke the Contract. The University Board reserves the right to modify, reject or approve all or any part of the Hearing Panel's recommendation. The University Board shall have available copies of the Hearing Panel's recommendation and the transcript of the hearing. The University Board may waive the fourteen (14) day submission requirement or hold a special board meeting to consider the Hearing Panel's recommendation. A copy of the University Board's decision shall be provided to the University Charter Schools Office, the Academy Board and the Michigan Department of Education.
- h) Effective Date of Revocation. If the University Board votes to revoke the Contract, the revocation shall be effective on the date of the University Board's act of revocation, or at a later date as determined by the University Board, but no later than the last day of the Academy's current academic year.
- i) Disposition of State School Aid Funds. Notwithstanding any other provision of the Contract, any state school aid funds received by the University Board after a recommendation is made by the Hearing Panel to revoke the Contract, or a decision by the University Board to revoke the Contract, may be held by the University Board and returned to the Michigan Department of Treasury.
- j) Disposition of School Code Number. Notwithstanding any other provision of the Contract, after a recommendation is made by the Hearing Panel to revoke the Contract, or a decision by the University Board to revoke the Contract, the school code number shall remain under the direction and control of the State Board of Education and/or its designated representative.

Section 10.4. Contract Suspension. The University Board's process for suspending the Contract is as follows:

- a) University President Action. If the University President determines, in his or her sole discretion, that conditions or circumstances exist that the Academy Board (i) has placed the health or safety of Academy staff and/or students at risk; (ii) is not properly exercising its fiduciary obligations to protect and preserve the Academy's public funds and property; (iii) has lost its right to occupancy of the physical facilities described in Section 6.11, and cannot find another suitable physical facility for the Academy prior to the expiration or termination of its right to occupy its existing physical facilities or (iv) has willfully or intentionally violated this Contract or Applicable Law, the University President may immediately suspend the Contract. If the conditions or circumstances involve an alleged violation of Sections 10.1 or 10.2, the University President is authorized to suspend the Contract immediately pending completion of the procedures set forth in Section 10.3. Unless otherwise specified in the suspension notice, the Academy shall cease operations on the date on which the suspension notice is issued. A copy of the suspension notice, setting forth the grounds for suspension, shall be sent to the Academy Board and to the Hearing Panel, if applicable. If this subsection is implemented, the notice and hearing procedures set forth in Section 10.4 shall be expedited as much as possible.
- b) Disposition of State School Aid Funds. Notwithstanding any other provision of the Contract, any state school aid funds received by the University Board after a decision by the University President to suspend the Contract, shall be retained by the University Board for the Academy until the Contract is reinstated, or shall be returned to the Michigan Department of Treasury.
- c) Immediate Revocation Proceeding. If the Academy Board, after receiving a Suspension Notice from the University President continues to engage in conduct or activities that are covered by the suspension notice, the Hearing Panel may immediately convene a Revocation Hearing in accordance with the procedures set forth in Section 10.3(e) of the Terms and Conditions. The Hearing Panel has the authority to accelerate the time line for revoking the Contract, provided that notice of the revocation hearing shall be provided to the University Charter Schools Office and the Academy Board at least five (5) days before the hearing. If the Hearing Panel determines that the Academy Board has continued to engage in conduct or activities that are covered by the suspension notice, the Hearing Panel may recommend revocation of the Contract. The University Board shall proceed to consider the Hearing Panel's recommendation in accordance with Section 10.3(f) through (i).

Section 10.5. Grounds and Procedures for Academy Termination of Contract. At anytime and for any reason, the Academy Board may terminate this Contract. The Academy Board shall notify the CSO Director in writing of the request for the termination of the Contract not less than ten (10) calendar months in advance of the effective date of termination. The University Board, in its sole discretion, may waive the

ten (10) month requirement. A copy of the Academy Board's resolution approving the Contract termination, including a summary of the reasons for terminating the Contract, shall be included with the written termination request.

Section 10.6. Superintending Control in the Event of an Emergency; Appointment of Conservator. Notwithstanding any other provision of the Contract, when the University Board determines that conditions or circumstances exist to lead the University Board to believe that the health, safety, educational or economic interest of the Academy or its students is at risk, the University Board may exercise superintending control over the Academy pending completion of the procedures described in Sections 10.3 and 10.7. The University Board may appoint a conservator to manage the day to day operations of the Academy in place of the Academy Board. A conservator appointed by the University Board shall have all the powers and authority of the Academy Board under this Contract and Applicable Law. Upon the appointment of a conservator, the appointment and term of office for each Academy Board member shall cease. If this section has been implemented and the Hearing Panel determines the revocation to be appropriate, the revocation shall become effective immediately upon the University Board's decision.

Section 10.7. Termination by University Board. The University Board, in its sole discretion, reserves the right to terminate the Contract for any reason provided that such termination shall not take place less than one (1) year from the date of the University Board's action. The University Charter Schools Office shall provide notice of the termination to the Academy. If during the period between the University Board action to terminate and the effective date of termination, the Academy has violated the Contract or Applicable Law, the Contract may be revoked or suspended sooner or the University Board may take superintending control actions pursuant to this Article X.

Following issuance of this Contract, if there is a change in Applicable Law that the University Board, in its sole discretion, determines impairs its rights and obligations under the Contract or requires the University Board to make changes in the Contract that are not in the best interest of the University Board or the University, then the University Board may terminate the Contract at the end of the Academy's school fiscal year in which the University Board's decision to terminate is adopted.

Section 10.8. Site Authorization Termination. If the Academy for any reason is unable to enroll students and conduct classes within (12) twelve months from the identified opening date of a site authorized by this Contract, then the University Board's authorization to use the proposed site(s) is automatically terminated without further action of the parties. The University Board may waive this (12) twelve month requirement by written permission prior to the conclusion of the (12) twelve month period.

Section 10.9. Adverse University Board Action Against Academy Site Constituting Separate Contract. If the University Board has authorized the Academy to

operate at different sites under this Contract, and those different sites constitute the issuance of more than one contract for purposes of section 524 of the Code, then the University Board, at its sole discretion, may take action, under the applicable section of this Article X, to revoke, suspend or terminate a permitted site constituting a contract for purposes of Section 524 of the Code, without acting on or adversely affecting the Academy's authority to operate under this Contract or the Academy's authority to operate at another permitted site not subject to such action. If applicable, the University Board shall identify the site constituting a contract for purposes of Section 524 of the Code in any notice issued under this Article X.

## ARTICLE XI

### PROVISIONS RELATING TO URBAN HIGH SCHOOL ACADEMIES

Section 11.1. Grand Valley State University Faculty Employment in the Academy. Subject to the ability of the Academy to reach separate agreement on the terms, the Academy is permitted to use University faculty as classroom teachers in any grade.

Section 11.2. The Academy Faculty Appointment to Grand Valley State University Faculty. Nothing in this Contract shall prohibit a member of the Academy faculty from being appointed to or serving as a member of the University faculty.

Section 11.3. Student Conduct and Discipline. The Academy Board shall adopt, abide by and enforce its own set of written policies concerning student conduct and student discipline.

Section 11.4. Insurance. The Academy shall secure and maintain in its own name as the "first named insured" at all times the following insurance coverages:

- a) Property insurance covering all of the Academy's real and personal property, whether owned or leased;
- b) General/Public Liability with a minimum of one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate (Occurrence Form);
- c) Auto Liability (Owned and Non-Owned) with a minimum of one million dollars (\$1,000,000) (Occurrence Form);
- d) Workers' Compensation or Workers' Compensation without employees "if any" insurance (statutory limits) and Employers' Liability insurance with a minimum of five hundred thousand dollars (\$500,000);
- e) Errors & Omissions insurance including Directors & Officers and School Leaders Errors & Omissions Liability insurance with a minimum of one

million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) aggregate (Claims Made or Occurrence Form);

- f) Crime including employee dishonesty insurance with a minimum of five hundred thousand dollars (\$500,000);
- g) Employment Practices Liability insurance with a minimum of one million dollars (\$1,000,000) per claim/aggregate (Claims Made or Occurrence Form).

The insurance must be obtained from a licensed mutual, stock, or other responsible company licensed to do business in the State of Michigan. The insurance carrier(s) must be an "A" best rating or better. The Academy may join with other public school academies to obtain insurance if the Academy finds that such an association provides economic advantages to the Academy, provided that each Academy maintains its identity as first named insured.

The Academy shall list the University Board and the University on the insurance policies as an additional insured on insurance coverages listed in (b), (c), (e) and (g) above. The Academy shall have a provision included in all policies requiring notice to the University, at least thirty (30) days in advance, upon termination or non-renewal of the policy or of changes in insurance carrier or policy limit changes. In addition, the Academy shall provide the University President copies of all insurance certificates and endorsements required by this Contract. The Academy shall also provide to the University President an entire copy of the insurance policies. The Academy may expend funds for payment of the cost of participation in an accident or medical insurance program to insure protection for pupils while attending school or participating in a school program or activity. Other insurance policies and higher minimum may be required depending upon academic offerings and program requirements.

The Academy understands that the University's insurance carrier periodically reviews the types and amounts of insurance coverages that the Academy must secure in order for the University to maintain insurance coverage for authorization and oversight of the Academy. In the event that the University's insurance carrier requests additional changes in coverage identified in this Section 11.4, the Academy agrees to comply with any additional changes in the types and amounts of coverage requested by the University's insurance carrier within thirty (30) days after notice of the insurance coverage change.

Section 11.5. Transportation. The Academy Board may enter into contract with other school districts or other persons, including municipal and county governments, for the transportation of the Academy students to and from school and for field trips. In addition, the Academy Board may use funds received from state school aid payments to pay for student transportation. In the event that the Academy Board contracts for transportation services, the Academy Board shall ensure that the company providing the transportation services is properly licensed in accordance with Applicable Law, and that

the company conducts criminal background and history checks on its drivers and other personnel who have direct contact with pupils in accordance with the Code.

Section 11.6. Extracurricular Activities and Interscholastic Sports. The Academy is authorized to join any organization, association, or league, which has as its objective the promotion and regulation of sport and athletic, oratorical, musical, dramatic, creative arts, or other contests by or between pupils.

Section 11.7. Legal Liabilities and Covenants Not to Sue. The Academy and Academy Board members acknowledge and agree that they have no authority to extend the faith and credit of the University or to enter into a contract that would bind the University. The Academy also is limited in its authority to contract by the amount of funds obtained from the state school aid fund, as provided hereunder, or from other independent sources. The Academy and Academy Board members hereby covenant not to sue the University Board, the University or any of its trustees, officers, employees, agents or representatives for any matters that arise under this Contract or otherwise. The University does not assume any obligation with respect to any Academy Director, employee, agent, parent, guardian, or independent contractor of the Academy, and no such person shall have the right or standing to bring suit against the University Board, the University or any of its Trustees, employees, agents, or independent contractors as a result of the issuing, termination or revocation of this Contract.

Section 11.8. Lease or Deed for Proposed Single Site(s). The Academy shall provide to the designee of the University Board copies of its lease or deed for the premises in which the Academy shall operate. For each approved site or sites, a copy of the Academy's lease or deed shall be incorporated into this Contract under Schedule 12.

Section 11.9. Occupancy and Safety Certificates. The Academy Board shall: (i) ensure that the Academy's physical facilities comply with all fire, health and safety standards applicable to schools; and (ii) possess the necessary occupancy and safety certificates for the Academy's physical facilities. The Academy Board shall not conduct classes until the Academy has complied with this Section 11.9. Copies of these certificates shall be incorporated into this Contract under Schedule 12.

Section 11.10. Deposit of Public Funds by the Academy. The Academy Board agrees to comply with Section 1221 of the Revised School Code, being MCL 380.1221, regarding the deposit of all public or private funds received by the Academy. Such deposit shall be made within three (3) business days after receipt of the funds by the Academy.

Section 11.11. Contract Administrator and Educational Management Company Agreements. The Academy may enter into an agreement with the Contract Administrator to perform certain functions as outlined in the agreement. The Academy may enter into a management agreement with Educational Management Company to contract out its administrative and/or educational personnel. The proposed Contract Administrator

agreement and proposed management agreement(s) shall be submitted to the University President for review and shall be valid if not disapproved. Any subsequent amendments must be submitted to the University President for review and may be disapproved if the proposed Contract Administrator or management agreement amendment(s) violate either the Contract or Applicable Law.

Section 11.12. Required Provisions for Contract Administrator and Educational Management Company Agreements. The Contract Administrator agreement and any educational management company agreement entered into by the Academy must contain the following provisions:

"Indemnification of Grand Valley State University. The parties acknowledge and agree that the Grand Valley State University Board of Trustees, Grand Valley State University and its members, officers, employees, agents or representatives are deemed to be third party beneficiaries for purposes of this Agreement. As third party beneficiaries, the parties hereby promise to indemnify and hold harmless Grand Valley State University Board of Trustees, Grand Valley State University and its members, officers, employees, agents or representatives from all claims, demands, or liability, including attorney fees, and related expenses, on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other losses of any kind whatsoever and not caused by the sole negligence of Grand Valley State University, which arise out of or are in any manner connected with Grand Valley State University Board's approval of the urban high school academy application, the University Board's consideration of or issuance of a Contract, the Academy's preparation for and operation of a public school, or which are incurred as a result of the reliance by Grand Valley State University and its Board of Trustees members, officers, employees, agents or representatives upon information supplied by the Academy or [Contract Administrator] [Educational Management Company], or which arise out of the failure of the Academy to perform its obligations under the Contract issued to the Academy by Grand Valley State University Board of Trustees. The parties expressly acknowledge and agree that Grand Valley State University and its Board of Trustee members, officers, employees, agents or representatives may commence legal action against either party to enforce its rights as set forth in this Agreement."

"Revocation or Termination of Contract. If the Academy's Contract issued by the Grand Valley State University Board of Trustees is revoked or terminated, this Agreement shall automatically terminate on the same date as the Academy's Contract is revoked or termination without further action of the parties."

"Compliance with Academy's Contract. The [Contract Administrator] [Educational Management Company] agrees to perform its duties and responsibilities under this Agreement in a manner that is consistent with the Academy's obligations under the Academy's Contract issued by Grand Valley State University Board of Trustees. The provisions of the Academy's Contract shall supersede any competing or conflicting provisions contained in this Agreement."

Section 11.13. Incompatible Public Offices and Conflicts of Interest Statutes. Pursuant to Sections 522(3)(e) and (f), the Academy shall comply with the Incompatible Public Offices statute, Act No. 566 of the Public Acts of 1978, being MCL 15.181 to 15.185 of the Michigan Compiled Laws, and the Contracts of Public Servants With Public Entities statute, Act No. 371 of the Public Acts of 1968, being MCL 15.321 to 15.330 of the Michigan Compiled Laws. The Academy Board shall ensure compliance with Applicable Law relating to conflicts of interest. Notwithstanding any other provision of this Contract, the following shall be deemed a prohibited conflict of interest for purposes of this Contract:

(a) An individual simultaneously serving as an Academy Board member and an owner, officer, director, employee or paid consultant of an Educational Management Company that has an agreement with the Academy;

(b) An individual simultaneously serving as an Academy Board member and an Academy employee;

(c) An individual simultaneously serving as an Academy Board member and an owner, officer, director, employee or paid consultant of the Contract Administrator;

(d) An individual simultaneously serving as an Academy Board member and a independent contractor to the Academy;

(e) An individual simultaneously serving as an Academy Board member and as a member of the governing board of another public school; and

(f) An individual simultaneously serving as an Academy Board member and a University employee or paid consultant.

Section 11.14. Certain Familial Relationships Prohibited. No person shall be eligible to serve as an Academy Board member if the person's spouse, child, parent, or sibling has: (i) an ownership interest in the Educational Management Company, the Contract Administrator or the Applicant; or (ii) if the person's spouse, child, parent, or sibling is in a managerial, administrative or officer position with the Educational Management Company, Contract Administrator or the Applicant.

Section 11.15. Dual Employment Positions Prohibited. Any person working at the Academy is prohibited by law from being employed at the Academy in more than one full-time position and simultaneously being compensated for each position.

Section 11.16. Information Available to the Public and University.

(a) Information to be provided by the Academy. The Academy shall make information concerning its operation and management, including without limitation the information described in Schedule 14, available to the public and the University in the



same manner and to the same extent as is required for school districts under Applicable Law.

(b) Information to be provided by Educational Management Company. The agreement between the Academy and the Educational Management Company shall contain a provision requiring the Educational Management Company to make information concerning the operation and management of the Academy, including without limitation the information described in Schedule 14, available to the Academy as deemed necessary by the Academy Board in order to enable the Academy to fully satisfy its obligations under subparagraph (a).

## ARTICLE XII

### GENERAL TERMS

Section 12.1. Notices. Any and all notices permitted or required to be given hereunder shall be deemed duly given; (i) upon actual delivery, if delivery by hand; or (ii) upon receipt by the transmitting party or confirmation or answer back if delivery is by telex or telegram; or (iii) upon delivery into United States mail if delivery is by postage paid first class mail. Each such notice shall be sent to the respective party at the address indicated below or to any other person or address as the respective party may designate by notice delivered pursuant hereto:

If to Grand Valley State University Board of Trustees:

Charter Schools Office Director  
1 Campus Drive  
Allendale, MI 49401

If to Academy:

The Public School Academies of Detroit  
500 Woodward Avenue  
Suite 4000  
Detroit, MI 48226

Section 12.2. Severability. If any provision in this Contract is held to be invalid or unenforceable, it shall be ineffective only to the extent of the invalidity, without affecting or impairing the validity and enforceability of the remainder of the provision or the remaining provisions of this Contract. If any provision of this Contract shall be or become in violation of any local, state or federal law, such provision shall be considered null and void, and all other provisions shall remain in full force and effect.

Section 12.3. Successors and Assigns. The terms and provisions of this Contract are binding on and shall inure to the benefit of the parties and their respective successors and permitted assigns.

Section 12.4. Entire Contract. This Contract sets forth the entire agreement between the University Board and the Academy with respect to the subject matter of this Contract. All prior application materials, contracts, representations, statements, negotiations, understandings, and undertakings, are superseded by this Contract.

Section 12.5. Assignment. This Contract is not assignable by either party.

Section 12.6. Non-Waiver. Except as provided herein, no term or provision of this Contract shall be deemed waived and no breach or default shall be deemed excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. No consent by any party to, or waiver of, a breach or default by the other, whether expressed or implied, shall constitute a consent to, waiver of, or excuse for any different or subsequent breach or default.

Section 12.7. Indemnification.

(a) Academy Indemnification. The Academy agrees to indemnify and hold the University Board, the University and its Board of Trustees members, officers, employees, agents or representatives harmless from all claims, demands, or liability, including attorney fees, and related expenses, on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other losses of any kind whatsoever and not caused by the sole negligence of the University, which arise out of or are in any manner connected with the University Board's receipt, consideration or approval of the Application, the University Board's approval of the Method of Selection Resolution or the Authorizing Resolution, legal challenges to the validity of Part 6c of the Code or actions taken by the University Board as an authorizing body under Part 6c of the Code, the University Board's consideration of or issuance of a Contract, the Academy's preparation for and operation of a public school, or which are incurred as a result of the reliance of the University Board, the University and its Board of Trustees members, officers, employees, agents or representatives upon information supplied by the Academy, or which arise out of the failure of the Academy to perform its obligations under this Contract. The foregoing provision shall not be deemed a relinquishment or waiver of any kind of Section 7 of the Governmental Liability for Negligence Act, being Act No. 170, Public Acts of Michigan, 1964.

(b) Applicant Indemnification. As part of the Application, the Applicant has entered into an Indemnification Agreement with the University Board and has agreed, under certain conditions, to indemnify and hold harmless the University Board, the University and its Board of Trustees members, officers, employees, agents and representatives. Under the Indemnification Agreement, the Applicant's indemnity obligation commenced on the date the Application was approved by the University Board, and shall continue for a period of two years following the date the University Board issued the Contract to the Academy. The Applicant's Indemnification Agreement

contained in the Application is hereby incorporated into these Terms and Conditions and shall be considered a part of this Contract.

Section 12.8. Construction. This Contract shall be construed fairly as to both parties and not in favor of or against either party, regardless of which party prepared the Contract.

Section 12.9. Force Majeure. If any circumstances occur which are beyond the control of the parties, which delay or render impossible the obligations of one or both of the parties, the parties' obligations to perform such services shall be postponed for an equivalent period of time or shall be canceled, if such performance has been rendered impossible by such circumstances.

Section 12.10. No Third Party Rights. This Contract is made for the sole benefit of the Academy and the University Board and no other person or entity, including without limitation, the Applicant, the Educational Management Company or the Contract Administrator. Except as otherwise provided, nothing in this Contract shall create or be deemed to create a relationship between the parties hereto, or either of them, and any third person, including a relationship in the nature of a third party beneficiary or fiduciary.

Section 12.11. Non-agency. It is understood that the Academy is not the agent of the University.

Section 12.12. Governing Law. This Contract shall be governed and controlled by the laws of the State of Michigan as to interpretation, enforcement, validity, construction, and effect, and in all other respects.

Section 12.13. Counterparts. This Contract may be executed in any number of counterparts. Each counterpart so executed shall be deemed an original, but all such counterparts shall together constitute one and the same instrument.

Section 12.14. Initial Term of Contract and Renewal.

(a) Initial Term of Contract. This Contract shall commence on the date first set forth above. If the Academy satisfies the conditions set forth below in Section 12.14(b), this Contract shall be in effect for ten (10) years and shall expire on June 30<sup>th</sup> of the tenth year after the issuance of the Contract, unless sooner revoked or terminated according to the terms hereof.

(b) Termination of Contract During Initial Term of Contract. Consistent with the procedures set forth in this Section 12.14(b), this Contract will terminate if any of the following does not occur prior to the first day the Academy opens a school building/site for operation to receive State School Aid payments, or on the date designated by the University, if other than the first day the Academy opens:

- (i) The Academy shall provide to the Charter Schools Office Director a copy of the Academy's agreements with any Educational Management Company and the Contract Administrator. The terms and conditions of the agreements must be acceptable to the University President.
- (ii) The Academy shall provide to the Charter Schools Office Director a copy of the Academy's real property lease for the school facilities set forth in Schedule 12. The terms and conditions of the real property lease must be acceptable to the University President.
- (iii) The Academy, through legal counsel, shall provide a legal opinion to the Charter Schools Office Director confirming that the Academy Board's approval and execution of any real property lease or other agreement with Educational Management Company, the Contract Administrator, the Applicant or an affiliate of the Applicant complies with the Contracts of Public Servants with Public Entities statute, MCL 15.321 et seq.
- (iv) The Academy shall provide to the Charter Schools Office Director, if applicable, a copy of an AHERA asbestos plan and lead based paint survey for the Academy's school facility identified in Schedule 12.
- (v) The Academy shall provide to the Charter Schools Office Director, if applicable, a copy of a current boiler inspection/ approval for the Academy's school facility identified in Schedule 12.
- (vi) The Academy shall provide documentation to the Charter Schools Office Director confirming that the Academy has received occupancy approval from the Michigan Department of Consumer and Industry Services' Office of Fire Safety for the Academy's school facility identified in Schedule 12.
- (vii) The Academy shall provide documentation to the Charter Schools Office Director that it has obtained a short-term cash flow loan to cover the initial cost of operations for the initial academic year. The Academy shall comply with section 1225 of the Revised School Code and the Revised Municipal Finance Act with respect to approving and obtain such funds.
- (viii) Any additional financial information or documentation requested by the University President.

The Academy shall notify the Charter Schools Office in writing following completion of the conditions set forth in this Section 12.14(b). For good cause, the Charter Schools Office Director may extend the deadlines set forth above. If the Charter Schools Office Director determines that the Academy has not satisfied the conditions set forth in this Section 12.14(b), the Charter Schools Office Director shall issue a Contract termination letter to the Academy for failing to meet certain conditions set forth in this Section 12.14(b). The issuance of the termination letter by the Charter Schools Office Director shall automatically terminate this Contract without any further action by either the University Board or the Academy Board. Upon issuance of the termination letter, the Charter Schools Office Director shall notify the Superintendent of Public Instruction and the Michigan Department of Education that the Contract has been terminated.

- (c) Contract Renewal. The University Board retains the right to determine whether or not the Academy has met "substantial compliance" with all Contract requirements, including but not limited to contractual operational compliance and the attainment of educational goals.

Section 12.15. Survival of Provisions. The terms, provisions, and representations contained in Section 11.4, Section 11.7, Section 11.12 and Section 12.7, and any other provision of this Contract that by their sense and context are intended to survive termination of this Contract shall survive.

Section 12.16. Termination of Responsibilities. Upon termination or revocation of this Contract, the University Board and its designees shall have no further obligations or responsibilities under this Contract to the Academy or any other person or persons in connection with this Contract.

[INTENTIONALLY LEFT BLANK]

As the designated representative of the Grand Valley State University Board of Trustees, I hereby issue this Contract to the Academy on the date set forth above.

GRAND VALLEY STATE UNIVERSITY  
BOARD OF TRUSTEES

By:   
University Board Chairperson

As the authorized representative of the Academy, I hereby certify that the Academy is able to comply with the Contract and all Applicable Law, and that the Academy, through its governing board, has approved and agreed to comply with and be bound by this Contract.

THE PUBLIC SCHOOL ACADEMIES OF DETROIT

By:   
Chairperson, Board of Directors



**CERTIFIED COPY OF RESOLUTION ADOPTED BY THE BOARD OF TRUSTEES OF  
GRAND VALLEY STATE UNIVERSITY ON FEBRUARY 14, 2014:**

**Authorization of Amended Method of Selection Resolution for the Public  
School Academies of Detroit**

WHEREAS, the Michigan Legislature has provided for the establishment of urban high school academies as part of the Michigan public school system by enacting Act No. 179 of the Public Acts of 2003; and

WHEREAS, the Board of Trustees has issued a contract to the Public School Academies of Detroit, effective August 26, 2008; and

WHEREAS, the Public School Academies of Detroit desires an amendment to the Method of Selection to allow for increased board member participation;

**NOW, THEREFORE, BE IT RESOLVED:**

That the Board of Trustees establishes the method of selection, length of term and number of members of the Academy's Board of Directors as follows:

1. **Method of Selection and Appointment of Academy Board Members:**
  - a. **Initial Academy Board Member Nominations and Appointments:** As part of the public school academy application, the public school academy applicant shall propose to the Director of the University Charter Schools Office ("Director"), the names of proposed individuals to serve on the initial board of directors of the proposed public school academy. When the Director recommends an initial contract for approval to the Board of Trustees, he/she shall include recommendations for initial Academy Board members. These recommendations may, but are not required to, include individuals proposed by the public school academy applicant. To be considered for appointment, the nominees must have completed the required board member candidate application materials, including at least (i) the Academy Board Member Questionnaire prescribed by the University Charter Schools

Office; and (ii) the Criminal Background Check Report prescribed by the University Charter Schools Office.

- b. Subsequent Academy Board Member Nominations and Appointments: Except as provided in paragraph (2) below, the Academy Board may nominate individuals for subsequent Academy Board of Director positions. As part of the appointment process, the Academy Board may submit to the Director: (i) the name of the nominee; (ii) the board member candidate application materials identified in paragraph (a) above; and (iii) a copy of the Academy Board nominating resolution. The Director may or may not recommend the proposed nominee submitted by the Academy Board. If the Director does not recommend a nominee submitted by the Academy Board, the Director shall select a nominee and forward that recommendation to the Board of Trustees for appointment. The Board of Trustees shall have the sole and exclusive right to appoint members to the Academy Board.
  - c. Exigent Appointments: When the Director determines an "exigent condition" exists which requires him/her to make an appointment to a public school academy's board of directors, the Director, with University President approval, may immediately appoint a person to serve as a public school academy board member for the time specified, but not longer than the next meeting held by the Board of Trustees when a regular appointment may be made by the Board of Trustees. The Director shall make the appointment in writing and notify the public school academy's board of directors of the appointment. Exigent conditions include, but are not limited to when an Academy Board seat is vacant, when a Academy Board cannot reach a quorum, when the Board of Trustees determines that an Academy Board member's service is no longer required, when an Academy Board member is removed, when an Academy Board fails to fill a vacancy, or other reasons which would prohibit the Academy Board from taking action without such an appointment.
2. Qualifications of Academy Board Members: To be qualified to serve on the Academy Board, a person shall: (a) be a citizen of the United States; (b) reside in the State of Michigan; (c) submit all materials requested by the GVSU Charter Schools Office including, but not limited to, a GVSU Academy Board Member Questionnaire and a release for criminal history background check; (d) not be an employee of the Academy; (e) not be a director, officer, or employee of a company or other entity that contracts with the Academy; and (f) not be an employee or representative of GVSU or be a member of the Board of Trustees.



3. Oath /Acceptance of Office / Voting Rights: Following appointment by the Board of Trustees, Academy Board Appointees may begin their legal duties, including the right to vote, after they have signed an Acceptance of Public Office form and taken the Oath or Affirmation of Public Office administered by a member of the Academy Board, other public official or notary public.

4. Length of Term; Removal: An appointed Academy Board member is an "at will" board member who shall serve at the pleasure of the Board of Trustees for a term of office not to exceed three (3) years. Regardless of the length of term, terms shall end on June 30 of the final year of service, unless shorter due to other provisions of this resolution. A person appointed to serve as an Academy Board member may be reappointed to serve additional terms. When an Academy Board member is appointed to complete the term of service of another Academy Board member, their service ends at the end of the previous Academy Board member's term.

If the Board of Trustees determines that an Academy Board member's service in office is no longer required, then the Board of Trustees may remove an Academy board member with or without cause and shall specify the date when the Academy Board member's service ends. An Academy Board member may be removed from office by a two-thirds (2/3) vote of the Academy's Board for cause.

5. Resignations: A member of the Academy Board may resign from office by submitting a written resignation or by notifying the Director. The resignation is effective upon receipt by the Director, unless a later date is specified in the resignation. A written notice of resignation is not required. If no such written notification is provided, then the Director shall confirm a resignation in writing. The resignation shall be effective upon the date the Director sends confirmation to the resigning Academy Board member.

6. Vacancy: An Academy Board position shall be considered vacant when an Academy Board member:

- a. Resigns
- b. Dies
- c. Is removed from Office
- d. Is convicted of a felony
- e. Ceases to be qualified
- f. Is incapacitated

7. Filling a Vacancy: The Academy Board may nominate and the Director shall recommend or temporarily appoint persons to fill a

vacancy as outlined in the "Subsequent Appointments" and "Exigent Appointments" procedures in this resolution.

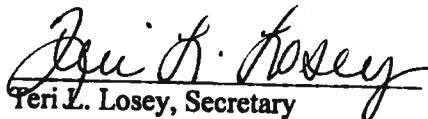
8. Number of Academy Board Member Positions: The number of member positions of the Academy Board of Directors shall be five (5), seven (7), nine (9), or eleven (11) as determined from time to time by the Academy Board.
9. Quorum: In order to legally transact business the Academy Board shall have a quorum physically present at a duly called meeting of the Academy Board. A "quorum" shall be defined as follows:

# of Academy Board positions	# required for Quorum
Five (5)	Three (3)
Seven (7)	Four (4)
Nine (9)	Five (5)
Eleven (11)	Six (6)

10. Manner of Acting: The Academy Board shall be considered to have "acted," when a duly called meeting of the Academy Board has a quorum present and the number of board members voting in favor of an action is as follows:

# of Academy Board positions	# for Quorum	# required to act
Five (5)	Three (3)	Three (3)
Seven (7)	Four (4)	Four (4)
Nine (9)	Five (5)	Five (5)
Eleven (11)	Six (6)	Six (6)

IN WITNESS WHEREOF, I have hereunto signed my name as Secretary and have caused the seal of said body corporate to be hereto affixed this 24th day of February 2014.



Teri L. Losey, Secretary  
Board of Trustees  
Grand Valley State University

## **SCHEDULE 1**

### **METHOD OF SELECTION RESOLUTION AND AUTHORIZING RESOLUTION**

The method of selection resolution and authorizing resolution are attached:

- Method of Selection Resolution, dated April 28, 2006 (PSAD)
- Authorizing Resolution, dated April 28, 2006 (PSAD: UPSM)
- Authorizing Resolution, dated April 25, 2008 (PSAD: UPA)
- Authorizing Resolution, dated April 25, 2008 (PSAD: HFA)



**MINUTES**  
**FOR REGULAR MEETING**  
**OF THE BOARD OF TRUSTEES**  
**OF GRAND VALLEY STATE UNIVERSITY**

The second meeting in 2008 of the Board of Trustees of Grand Valley State University was held at the Kirkhof Center on the Allendale Campus of Grand Valley State University on Friday, April 25, 2008.

The following members of the Board were present:

Donna K. Brooks  
Noreen K. Myers  
Shelley E. Padnos  
Lucille S. Taylor, Chair  
Michael D. Thomas  
Kate Pew Wolters  
Thomas J. Haas, President, Ex Officio

The following members of the Board were absent:

Daniel J. Aronoff  
Dorothy A. Johnson

The following Executive and Board officers were present:

Jeanne J. Arnold, Vice President for Inclusion and Equity  
Jim Bachmeier, Vice President for Finance and Administration,  
and Treasurer, Board of Trustees  
Gayle R. Davis, Provost and Vice President for Academic Affairs  
Teri L. Losey, Special Assistant to the President and Secretary, Board of Trustees  
Matthew E. McLogan, Vice President for University Relations  
Maribeth G. Wardrop, Vice President for Development

The meeting was called to order at 11:00 a.m.

I. SECRETARY'S REPORT

(Teri L. Losey)

08-2-1 (1) Approval of Minutes of Prior Meeting

On motion by Mrs. Wolters and second by Ms. Myers, the following resolution was adopted unanimously:

RESOLVED, that the minutes of the meeting, held February 29, 2008, are approved as distributed.

08-2-2 (2) Motion to Adopt Agenda

On motion by Mrs. Brooks and second by Mr. Thomas, the following resolution was adopted unanimously:

RESOLVED, that the Board of Trustees agenda for the April 25, 2008, meeting is approved as distributed.

08-2-3 (3) Commencement Announcements

April Commencement will be held on Saturday, April 26, 2008, at the Van Andel Arena in downtown Grand Rapids. The first ceremony will begin promptly at 10 a.m. and the second promptly at 3 p.m. Additional information regarding robing location, parking arrangements, etc. for the April 26 Commencement ceremonies has been mailed to members of the Board of Trustees.

Additionally, the Traverse City Commencement ceremony will be held on Thursday, May 1, 2008, at the Grand Traverse Resort in Acme, Michigan beginning at 6 p.m.

08-2-4 (4) Bylaw Amendment for Nominating Committee

On motion by Mrs. Wolters and second by Mrs. Brooks, the following resolution was adopted unanimously:

RESOLVED, the Board of Trustees of Grand Valley State University approves the amendment to Article V, Section 5.1 of the Bylaws as presented at this meeting.

Chair Taylor identified the following candidates for the nominating committee:

Dorothy A. Johnson, Chair  
Noreen K. Myers  
Michael D. Thomas

The Board of Trustee election of officers will occur at the July 18, 2008, meeting.

## II. GENERAL REPORTS

### 08-2-5 (5) Personnel Actions

On motion by Mrs. Brooks and second by Mr. Thomas, the following resolution was adopted unanimously:

RESOLVED, that the Board of Trustees approves the personnel actions as reported at this meeting.

### 08-2-6 (6) Gift and Grant Summary

On motion by Mrs. Brooks and second by Mr. Thomas, the following resolution was adopted unanimously:

RESOLVED, that the Board of Trustees gratefully accepts the gifts and grants of \$2,435,209.39 presented at this meeting for January 1, 2008 through February 29, 2008.

### 08-2-7 (7) Revision to Administrative Manual – Chapter 4 – Section 2

On motion by Mr. Thomas and second by Ms. Padnos, the following resolution was adopted unanimously:

RESOLVED, that the Board of Trustees approves the changes to Chapter 4, Section 2.5 – Regular Faculty Rank; Section 2.8 – Academic Tenure; Section 2.9 – Evaluation Criteria for Renewal of Probationary Appointments, Promotion, Tenure, and Periodic Performance Reviews; and Section 2.20 – Salary Administration of the *Administrative Manual*, as presented at this meeting.

### 08-2-8 (8) Revisions to Administrative Manual Chapter 3 – Section C.1

On motion by Mrs. Wolters and second by Mrs. Brooks, the following resolution was adopted unanimously:

RESOLVED, that the Board of Trustees approves the change to Chapter 3, Section C.1 – Undergraduate Degree Programs, of the *Administrative Manual* to rename the undergraduate Public Administration program to Public and Nonprofit Administration.

### 08-2-9 (9) Faculty Achievements

### 08-2-10 (10) 2008-2009 Endowment Fund Spending Rates

## II. GENERAL REPORTS (cont'd.)

On motion by Ms. Padnos and second by Mrs. Wolters, the following resolution was adopted unanimously:

RESOLVED, that the Board of Trustees approves the 2008-2009 Endowment Fund Spending Rates as presented at this meeting.

08-2-11      (11)      2008-2009 and Revised 2007-2008 Auxiliary Operating Budgets

On motion by Mrs. Wolters and second by Ms. Myers, the following resolution was adopted unanimously:

RESOLVED, that the Board of Trustees approves the 2008-2009 and Revised 2007-2008 Auxiliary Operating Budgets as presented at this meeting.

08-2-12      (12)      Preliminary Spending Authority for Fiscal Year 2008-2009

On motion by Mrs. Wolters and second by Ms. Myers, the following resolution was adopted unanimously:

RESOLVED, that the Board of Trustees approves the Preliminary Spending Authority at levels consistent with the 2007-2008 budget for Fiscal Year 2008-2009 until the 2008-2009 budget is adopted.

08-2-13      (13)      Charter Schools Report

I. Resolution Approving the Merger, Transfer of Enrolled Pupils and Property Between University Preparatory Academy and Public School Academies of Detroit; the Termination of the University Preparatory Academy Contract; the Addition of Sites to Public School Academies of Detroit Contract and the Issuance of A Second Contract to Public School Academies of Detroit Comprised of Additional Sites

On motion by Ms. Myers and second by Ms. Padnos, the following resolution was adopted unanimously:

WHEREAS, the Michigan Legislature and Governor recently passed Public Act 1 of 2008 ("PA 1") which, among other things, amends part 6A of the Revised School Code ("Code") by authorizing a public school academy to transfer its enrolled pupils and property to another public school; and

WHEREAS, under the Code, public school academies and urban high school academies are organized as nonprofit corporations in the state of Michigan, subject to the Michigan Non-Profit Corporations Act, MCL 450.2101 et seq. ("Act"); and

II. GENERAL REPORTS (cont'd.)

WHEREAS, the Act contains provisions which allow two or more non-profit corporations to merge together; and

WHEREAS, according to PA 1, a public school academy is required to seek approval from its authorizing body for the proposed transfer of its enrolled pupils and property before the transfer can be implemented; and

WHEREAS, the University Preparatory Academy ("UPA") board of directors, a public school academy authorized by the Board of Trustees of Grand Valley State University ("University Board"), at its March 10, 2008 meeting, adopted a resolution approving a plan of merger and merger proposal in accordance with the Act that would, among other things, merge UPA into the Public School Academies of Detroit ("Academy") and transfer UPA's enrolled pupils and property to the Academy, an urban high school academy authorized by the University Board; and

WHEREAS, the Academy, at its April 8, 2008 meeting, adopted a resolution approving a plan of merger which, upon the effective date of the merger, will result in UPA and the Academy merging with the Academy being the surviving corporation upon completion of the merger, as well as UPA's enrolled pupils and property being transferred to the Academy; and

WHEREAS, the University Board, as the authorizing body for both UPA and the Academy, has reviewed the proposed plan of merger and hereby agrees to permit (i) UPA to merge into the Academy with the Academy being the surviving corporation upon completion of the merger; and (ii) UPA's enrolled pupils and property to be transferred to the Academy.

NOW, THEREFORE, BE IT RESOLVED:

APPROVAL OF MERGER AND TRANSFER OF PUPILS AND PROPERTY

1. To the extent required by the Code, the University Board hereby approves:
  - (a) the merger between UPA and the Academy; and
  - (b) the transfer of UPA's property to the Academy.
2. As required by the Code, the University Board hereby approves the transfer of UPA's enrolled pupils to the Academy.
3. UPA and the Academy shall provide the University Charter Schools Office with a copy of the executed plan of merger and all executed agreements and documents in connection with the merger.



II. GENERAL REPORTS (cont'd.)

TERMINATION OF UPA CONTRACT

4. The University Board hereby approves termination of UPA's contract. The effective date of termination shall be the same date that Academy students commence classes for the 2008-2009 school year.

APPROVAL OF ADDITIONAL ACADEMY SITES

5. In accordance with Section 524(1), MCL 380.524(1) of the Code, the University Board hereby approves an amendment of the Academy's contract to include the former UPA school sites and an additional site at the following locations:
- (a) 957 Holden Street, Detroit, MI 48202
  - (b) 5310 St. Antoine Street, Detroit, MI 48202
  - (c) 600 Antoinette Street, Detroit, MI 48202
  - (d) 435 Amsterdam Street, Detroit, MI 48202

ISSUANCE OF A SECOND CONTRACT TO THE ACADEMY

6. In accordance with Section 6.11 of the General Terms and Conditions incorporated into the Academy's contract, dated December 14, 2007, the University Board hereby issues a second contract to the Academy.

II. Resolution Authorizing Site Changes for Public School Academies of Detroit

On motion by Mrs. Wolters and second by Mrs. Brooks, the following resolution was adopted unanimously:

WHEREAS, the Michigan Legislature has provided for the establishment of urban high school academies as part of the Michigan public school system by enacting Act No. 179 of the Public Acts of 2003; and

WHEREAS, according to this law, the Board of Trustees of Grand Valley State University ("Board of Trustees"), as the governing body of a state public university, is an authorizing body empowered to issue contracts to organize and operate urban high school academies; and

WHEREAS, according to this law, the Board of Trustees is empowered to issue one or more contracts to an urban high school academy corporation;

WHEREAS, the Board of Trustees has issued a contract to the Public School Academies of Detroit ("Academy") to operate a school at certain sites known as University Preparatory Science and Math ("UPSM"); and

II. GENERAL REPORTS (cont'd.)

WHEREAS, the Academy, by separate resolution, has requested that the University Board approve site changes for UPSM's temporary facility for the 2008-2009 academic year;

NOW, THEREFORE, BE IT RESOLVED:

In accordance with Section 6.11 of the General Terms and Conditions incorporated into the Academy's contract, dated December 14, 2007, the University Board hereby approves an amendment of the Academy's contract to include the following proposed site for UPSM:

One Campus Martius  
Detroit, Michigan 48226

III. Resolution Authorizing The Issuing A Third Contract to Public School Academies of Detroit Constituting Additional Sites

On motion by Ms. Myers and second by Mrs. Brooks, the following resolution was adopted unanimously:

WHEREAS, the Michigan Legislature has provided for the establishment of urban high school academies as part of the Michigan public school system by enacting Act No. 179 of the Public Acts of 2003; and

WHEREAS, according to this law, the Board of Trustees of Grand Valley State University ("Board of Trustees"), as the governing body of a state public university, is an authorizing body empowered to issue contracts to organize and operate urban high school academies; and

WHEREAS, according to this law, the Board of Trustees is empowered to issue one or more contracts to an urban high school academy corporation;

WHEREAS, the Board of Trustees has issued a contract to the Public School Academies of Detroit ("Academy") to operate a school known as University Preparatory Science & Math; and

WHEREAS, the Board of Trustees, by separate resolution, has approved a merger between the Academy and University Preparatory Academy ("UPA") and has issued a second contract to the Academy to operate a school known as UPA; and

WHEREAS, the Academy Board of Directors, in consultation with the Thompson Education Foundation, the Academy's applicant and contract administrator, has submitted an application to the Board of Trustees for the issuance of a third contract to operate a school known as Henry Ford Academy: School for Creative Studies.

## II. GENERAL REPORTS (cont'd.)

NOW, THEREFORE, BE IT RESOLVED:

1. That the application, submitted under Section 522 of the Revised School Code ("Code"), MCL 380.522, meets the Board of Trustees requirements and the requirements of applicable law and is therefore approved;
2. In accordance with Section 524(1), MCL 380.524(1) of the Code, the University Board hereby approves an amendment of the Academy's contract to include the proposed site for the Henry Ford Academy: School for Creative Studies:

Argonaut Building  
435-485 West Milwaukee  
Detroit, Michigan 48202

3. In accordance with Section 6.11 of the General Terms and Conditions incorporated into the Academy's contract, dated December 14, 2007, the University Board hereby issues a third contract to the Academy provided that, before execution of the contract amendment memorializing this contract, the University President or his designee affirms that all terms of the contract amendment have been agreed upon by the Academy.

## IV. Achieve Charter Academy

On motion by Mrs. Wolters and second by Ms. Myers, the following resolution was adopted unanimously:

WHEREAS, the Michigan Legislature has provided for the establishment of public school academies as part of the Michigan public school system by enacting Act No. 362 of the Public Acts of 1993; and

WHEREAS, according to this legislation, the Grand Valley State University Board of Trustees (the "Board of Trustees"), as the governing body of a state public university, is an authorizing body empowered to issue contracts to organize and operate public school academies; and

WHEREAS, the Michigan Legislature has mandated that public school academy contracts be issued on a competitive basis taking into consideration the resources available for the proposed public school academy, the population to be served by the proposed public school academy, and the educational goals to be achieved by the proposed public school academy; and

## II. GENERAL REPORTS (cont'd.)

WHEREAS, the Grand Valley State University Board of Trustees, having requested applications for organizing public school academies and having reviewed the applications according to the provisions set forth by the Michigan Legislature;

NOW, THEREFORE, BE IT RESOLVED:

1. That the application for Achieve Charter Academy ("Academy"), submitted under Section 502 of the Revised School Code, meets the Board of Trustees' requirements and the requirements of applicable law, is therefore approved;
2. That the Board of Trustees establishes the method of selection, length of term and number of members of the Academy's Board of Directors as follows:

### Method of Selection and Appointment of Academy Board Members:

- a. Initial Academy Board Member Nominations and Appointments: As part of the public school academy application, the public school academy applicant shall propose to the Director of the University Charter Schools Office ("Director"), the names of proposed individuals to serve on the initial board of directors of the proposed public school academy. When the Director recommends an initial contract for approval to the Board of Trustees, he/she shall include recommendations for initial Academy Board members. These recommendations may, but are not required to, include individuals proposed by the public school academy applicant. To be considered for appointment, the nominees must have completed the required board member candidate application materials, including at least (i) the Academy Board Member Questionnaire prescribed by the University Charter Schools Office; and (ii) the Criminal Background Check Report prescribed by the University Charter Schools Office.
- b. Subsequent Academy Board Member Nominations and Appointments: Except as provided in paragraph (2) below, the Academy Board may nominate individuals for subsequent Academy Board of Director positions. As part of the appointment process, the Academy Board may submit to the Director: (i) the name of the nominee; (ii) the board member candidate application materials identified in paragraph (a) above; and (iii) a copy of the Academy Board nominating

## II. GENERAL REPORTS (cont'd.)

resolution. The Director may or may not recommend the proposed nominee submitted by the Academy Board. If the Director does not recommend a nominee submitted by the Academy Board, the Director shall select a nominee and forward that recommendation to the Board of Trustees for appointment. The Board of Trustees shall have the sole and exclusive right to appoint members to the Academy Board.

- c. Exigent Appointments: When the Director determines an "exigent condition" exists which requires him/her to make an appointment to a public school academy's board of directors, the Director, with University President approval, may immediately appoint a person to serve as a public school academy board member for the time specified, but not longer than the next meeting held by the Board of Trustees when a regular appointment may be made by the Board of Trustees. The Director shall make the appointment in writing and notify the public school academy's board of directors of the appointment. Exigent conditions include, but are not limited to when an Academy Board seat is vacant, when a Academy Board cannot reach a quorum, when the Board of Trustees determines that an Academy Board member's service is no longer required, when an Academy Board member is removed, when an Academy Board fails to fill a vacancy, or other reasons which would prohibit the Academy Board from taking action without such an appointment.
3. Qualifications of Academy Board Members: To be qualified to serve on the Academy Board, a person shall: (a) be a citizen of the United States; (b) reside in the State of Michigan; (c) submit all materials requested by the GVSU Charter Schools Office including, but not limited to, a GVSU Academy Board Member Questionnaire and a release for criminal history background check; (d) not be an employee of the Academy; (e) not be a director, officer, or employee of a company or other entity that contracts with the Academy; and (f) not be an employee or representative of GVSU or be a member of the Board of Trustees.
4. Oath /Acceptance of Office / Voting Rights: Following appointment by the Board of Trustees, Academy Board Appointees may begin their legal duties, including the right to vote, after they have signed an Acceptance of Public Office form and taken the Oath or Affirmation of Public Office administered by a member of the Academy Board, other public official or notary public.

## II. GENERAL REPORTS (cont'd.)

5. Length of Term; Removal: An appointed Academy Board member is an "at will" board member who shall serve at the pleasure of the Board of Trustees for a term of office not to exceed three (3) years.

Regardless of the length of term, terms shall end on June 30 of the final year of service, unless shorter due to other provisions of this resolution. A person appointed to serve as an Academy Board member may be reappointed to serve additional terms. When an Academy Board member is appointed to complete the term of service of another Academy Board member, their service ends at the end of the previous Academy Board member's term.

If the Board of Trustees determines that an Academy Board member's service in office is no longer required, then the Board of Trustees may remove an Academy board member with or without cause and shall specify the date when the Academy Board member's service ends. An Academy Board member may be removed from office by a two-thirds (2/3) vote of the Academy's Board for cause.

6. Resignations: A member of the Academy Board may resign from office by submitting a written resignation or by notifying the Director. The resignation is effective upon receipt by the Director, unless a later date is specified in the resignation. A written notice of resignation is not required. If no such written notification is provided, then the Director shall confirm a resignation in writing. The resignation shall be effective upon the date the Director sends confirmation to the resigning Academy Board member.

7. Vacancy: An Academy Board position shall be considered vacant when an Academy Board member:

- a. Resigns
- b. Dies
- c. Is removed from Office
- d. Is convicted of a felony
- e. Ceases to be qualified
- f. Is incapacitated

8. Filling a Vacancy: The Academy Board may nominate and the Director shall recommend or temporarily appoint persons to fill a vacancy as outlined in the "Subsequent Appointments" and "Exigent Appointments" procedures in this resolution.

9. Number of Academy Board Member Positions: The number of member positions of the Academy Board of Directors shall be five (5), seven (7) or nine (9), as determined from time to time by the Academy Board.

## II. GENERAL REPORTS (cont'd.)

10. Quorum: In order to legally transact business the Academy Board shall have a quorum physically present at a duly called meeting of the Academy Board. A "quorum" shall be defined as follows:

# of Academy Board positions	# required for Quorum
Five (5)	Three (3)
Seven (7)	Four (4)
Nine (9)	Five (5)

11. Manner of Acting: The Academy Board shall be considered to have "acted," when a duly called meeting of the Academy Board has a quorum present and the number of board members voting in favor of an action is as follows:

# of Academy Board positions	# for Quorum	# required to act
Five (5)	Three (3)	Three (3)
Seven (7)	Four (4)	Four (4)
Nine (9)	Five (5)	Five (5)

12. Initial Members of the Board of Directors: The Grand Valley State University Board of Trustees appoints the following persons to serve as the initial members of the Academy's Board of Directors for the designated term of office set forth below:

Charles N. Ash, Jr.	3 year term expiring June 30, 2011
Adelaide E. Jackson	3 year term expiring June 30, 2011
Heather A. Kellstrom	2 year term expiring June 30, 2010
Laura S. Packer	1 year term expiring June 30, 2009

13. The Board of Trustees approves and authorizes the execution of a contract to charter a public school academy to the Academy and authorizes the University President or designee to issue a contract to charter a public school academy and related documents ("Contract") to the Academy, provided that, before execution of the Contract, the University President or designee affirms that all terms of the contract have been agreed upon and the Academy is able to comply with all terms and conditions of the Contract and Applicable Law. This resolution shall be incorporated in and made part of the Contract.
14. Within ten days after the Board of Trustees issues the Contract, the Director will submit the Contract to the Michigan Department of Education. Pursuant to the State School Aid Act of 1979, the Michigan Department of Education shall, within thirty days after the Contract is submitted to the Michigan Department of Education, issue a district code number to each public school academy that is authorized under the Revised School Code and is eligible to receive

## II. GENERAL REPORTS (cont'd.)

funding under the State School Aid Act. By approving and issuing the Contract, the Board of Trustees is not responsible for the Michigan Department of Education's issuance or non-issuance of a district code number. As a condition precedent to the Board of Trustees' issuance of the Contract, the Applicant, the Academy and the Academy's Board of Directors shall acknowledge and agree that the Board of Trustees, Grand Valley State University, its officers, employees and agents are not responsible for any action taken by the Academy in reliance upon the Michigan Department of Education's issuance of a district code number to the Academy, or for any Michigan Department of Education's decision resulting in the non-issuance of a district code number to the Academy.

### V. Reauthorization of Charter Contract

#### Warrendale Charter Academy, Detroit (7 year)

On motion by Mrs. Brooks and second by Ms. Myers, the following resolution was adopted unanimously:

WHEREAS, the Board of Trustees of Grand Valley State University at its meeting on June 18, 2001, authorized the issuance of a contract to charter a public school academy to Warrendale Charter Academy (the "Academy") with an effective date of June 18, 2001.

NOW, THEREFORE, BE IT RESOLVED:

1. The Board of Directors of the Academy were selected in accordance with the resolution adopted by the Grand Valley State University Board of Trustees establishing the method of selection, length of term, and number of members of the Academy Board. This resolution is incorporated in and made part of the contract as Schedule 1.
2. The contract of this Academy is due to expire on June 30, 2008.
3. The University's Charter Schools Office has completed its evaluation and assessment of the operation and performance of the Academy.
4. The Board of Trustees of Grand Valley State University may consider there issuance of a contract to charter following an evaluation and assessment by the University's Charter Schools Office that concludes that the operation and performance of the academy warrants the reissuance of a contract.
5. The present Board of Directors of the Academy has requested the reissuance of a contract to charter as a public school academy.



## II. GENERAL REPORTS (cont'd.)

6. The University President or his designee has recommended the reissuance of a contract to charter as a public school academy to the Academy for a seven (7) year term beginning July 1, 2008 and ending June 30, 2015.
7. The Grand Valley State University Board of Trustees approves and reauthorizes the execution of a contract to charter a public school academy to the Academy and authorizes the University President or designee to execute the contract to charter a public school academy and related documents to the Academy for a seven (7) year term, provided that, before the execution of the contract, the University President or designee affirms that all terms of the contract have been agreed upon and the Academy is able to comply with all terms and conditions of the contract and applicable law. This resolution shall be incorporated in and made part of the contract as Schedule 1.

### VI. Amendment to Charter School Contract

#### Muskegon Technical Academy

On motion by Mrs. Wolters and second by Ms. Myers, the following resolution was adopted unanimously:

RESOLVED, that the Board of Trustees of Grand Valley State University approves an amendment to the Contract to Charter a Public School Academy and Schedule 2, Articles of Incorporation, between Muskegon Technical Academy and Grand Valley State University Board of Trustees to reflect a change in the school name to WayPoint Academy.

### VII. Restated Reach Charter Academy

On motion by Ms. Myers and second by Ms. Padnos, the following resolution was adopted unanimously:

WHEREAS, the Michigan Legislature has provided for the establishment of public school academies as part of the Michigan public school system by enacting Act No. 362 of the Public Acts of 1993; and

WHEREAS, according to this legislation, the Grand Valley State University Board of Trustees (the "Board of Trustees"), as the governing body of a state public university, is an authorizing body empowered to issue contracts to organize and operate public school academies; and

WHEREAS, the Michigan Legislature has mandated that public school academy contracts be issued on a competitive basis taking into

## II. GENERAL REPORTS (cont'd.)

consideration the resources available for the proposed public school academy, the population to be served by the proposed public school academy, and the educational goals to be achieved by the proposed public school academy; and

WHEREAS, the Grand Valley State University Board of Trustees, having requested applications for organizing public school academies and having reviewed the applications according to the provisions set forth by the Michigan Legislature;

NOW, THEREFORE, BE IT RESOLVED:

1. That the application for Reach Charter Academy ("Academy"), submitted under Section 502 of the Revised School Code, meets the Board of Trustees' requirements and the requirements of applicable law, is therefore approved;
2. That the Board of Trustees establishes the method of selection, length of term and number of members of the Academy's Board of Directors as follows:

### Method of Selection and Appointment of Academy Board Members:

- a. Initial Academy Board Member Nominations and Appointments: As part of the public school academy application, the public school academy applicant shall propose to the Director of the University Charter Schools Office ("Director"), the names of proposed individuals to serve on the initial board of directors of the proposed public school academy. When the Director recommends an initial contract for approval to the Board of Trustees, he/she shall include recommendations for initial Academy Board members. These recommendations may, but are not required to, include individuals proposed by the public school academy applicant. To be considered for appointment, the nominees must have completed the required board member candidate application materials, including at least (i) the Academy Board Member Questionnaire prescribed by the University Charter Schools Office; and (ii) the Criminal Background Check Report prescribed by the University Charter Schools Office.
- b. Subsequent Academy Board Member Nominations and Appointments: Except as provided in paragraph (2) below, the Academy Board may nominate individuals for subsequent Academy Board of Director positions. As part of the appointment process, the Academy Board may submit to the

## II. GENERAL REPORTS (cont'd.)

Director: (i) the name of the nominee; (ii) the board member candidate application materials identified in paragraph (a) above; and (iii) a copy of the Academy Board nominating resolution. The Director may or may not recommend the proposed nominee submitted by the Academy Board. If the Director does not recommend a nominee submitted by the Academy Board, the Director shall select a nominee and forward that recommendation to the Board of Trustees for appointment. The Board of Trustees shall have the sole and exclusive right to appoint members to the Academy Board.

- c. Exigent Appointments: When the Director determines an "exigent condition" exists which requires him/her to make an appointment to a public school academy's board of directors, the Director, with University President approval, may immediately appoint a person to serve as a public school academy board member for the time specified, but not longer than the next meeting held by the Board of Trustees when a regular appointment may be made by the Board of Trustees. The Director shall make the appointment in writing and notify the public school academy's board of directors of the appointment. Exigent conditions include, but are not limited to when an Academy Board seat is vacant, when a Academy Board cannot reach a quorum, when the Board of Trustees determines that an Academy Board member's service is no longer required, when an Academy Board member is removed, when an Academy Board fails to fill a vacancy, or other reasons which would prohibit the Academy Board from taking action without such an appointment.
3. Qualifications of Academy Board Members: To be qualified to serve on the Academy Board, a person shall: (a) be a citizen of the United States; (b) reside in the State of Michigan; (c) submit all materials requested by the GVSU Charter Schools Office including, but not limited to, a GVSU Academy Board Member Questionnaire and a release for criminal history background check; (d) not be an employee of the Academy; (e) not be a director, officer, or employee of a company or other entity that contracts with the Academy; and (f) not be an employee or representative of GVSU or be a member of the Board of Trustees.
4. Oath /Acceptance of Office / Voting Rights: Following appointment by the Board of Trustees, Academy Board Appointees may begin their legal duties, including the right to vote, after they have signed an Acceptance of Public Office form and taken the Oath or Affirmation

## II. GENERAL REPORTS (cont'd.)

of Public Office administered by a member of the Academy Board, other public official or notary public.

5. Length of Term; Removal: An appointed Academy Board member is an "at will" board member who shall serve at the pleasure of the Board of Trustees for a term of office not to exceed three (3) years. Regardless of the length of term, terms shall end on June 30 of the final year of service, unless shorter due to other provisions of this resolution. A person appointed to serve as an Academy Board member may be reappointed to serve additional terms. When an Academy Board member is appointed to complete the term of service of another Academy Board member, their service ends at the end of the previous Academy Board member's term.

If the Board of Trustees determines that an Academy Board member's service in office is no longer required, then the Board of Trustees may remove an Academy board member with or without cause and shall specify the date when the Academy Board member's service ends. An Academy Board member may be removed from office by a two-thirds (2/3) vote of the Academy's Board for cause.

6. Resignations: A member of the Academy Board may resign from office by submitting a written resignation or by notifying the Director. The resignation is effective upon receipt by the Director, unless a later date is specified in the resignation. A written notice of resignation is not required. If no such written notification is provided, then the Director shall confirm a resignation in writing. The resignation shall be effective upon the date the Director sends confirmation to the resigning Academy Board member.
7. Vacancy: An Academy Board position shall be considered vacant when an Academy Board member:
  - a. Resigns
  - b. Dies
  - c. Is removed from Office
  - d. Is convicted of a felony
  - e. Ceases to be qualified
  - f. Is incapacitated
8. Filling a Vacancy: The Academy Board may nominate and the Director shall recommend or temporarily appoint persons to fill a vacancy as outlined in the "Subsequent Appointments" and "Exigent Appointments" procedures in this resolution.

## II. GENERAL REPORTS (cont'd.)

9. Number of Academy Board Member Positions: The number of member positions of the Academy Board of Directors shall be five (5), seven (7) or nine (9), as determined from time to time by the Academy Board.
10. Quorum: In order to legally transact business the Academy Board shall have a quorum physically present at a duly called meeting of the Academy Board. A "quorum" shall be defined as follows:

# of Academy Board positions	# required for Quorum
Five (5)	Three (3)
Seven (7)	Four (4)
Nine (9)	Five (5)

11. Manner of Acting: The Academy Board shall be considered to have "acted," when a duly called meeting of the Academy Board has a quorum present and the number of board members voting in favor of an action is as follows:

# of Academy Board positions	# for Quorum	# required to act
Five (5)	Three (3)	Three (3)
Seven (7)	Four (4)	Four (4)
Nine (9)	Five (5)	Five (5)

12. Initial Members of the Board of Directors: The Grand Valley State University Board of Trustees appoints the following persons to serve as the initial members of the Academy's Board of Directors for the designated term of office set forth below:

Harry A. Briggs	2 year term expiring June 30, 2010
Lisa M. Klobucar	3 year term expiring June 30, 2011
Deborah B. Lowery	1 year term expiring June 30, 2009
Eira W. Moore	3 year term expiring June 30, 2011

13. The Board of Trustees approves and authorizes the execution of a contract to charter a public school academy to the Academy and authorizes the University President or designee to issue a contract to charter a public school academy and related documents ("Contract") to the Academy, provided that, before execution of the Contract, the University President or designee affirms that all terms of the contract have been agreed upon and the Academy is able to comply with all terms and conditions of the Contract and Applicable Law. This resolution shall be incorporated in and made part of the Contract.
14. Within ten days after the Board of Trustees issues the Contract, the Director will submit the Contract to the Michigan Department of

## II. GENERAL REPORTS (cont'd.)

Education. Pursuant to the State School Aid Act of 1979, the Michigan Department of Education shall, within thirty days after the Contract is submitted to the Michigan Department of Education, issue a district code number to each public school academy that is authorized under the Revised School Code and is eligible to receive funding under the State School Aid Act. By approving and issuing the Contract, the Board of Trustees is not responsible for the Michigan Department of Education's issuance or non-issuance of a district code number. As a condition precedent to the Board of Trustees' issuance of the Contract, the Applicant, the Academy and the Academy's Board of Directors shall acknowledge and agree that the Board of Trustees, Grand Valley State University, its officers, employees and agents are not responsible for any action taken by the Academy in reliance upon the Michigan Department of Education's issuance of a district code number to the Academy, or for any Michigan Department of Education's decision resulting in the non-issuance of a district code number to the Academy.

## VIII. Appointment of Charter School Board of Directors

On motion by Mrs. Wolters and second by Mrs. Brooks, the following resolution was adopted unanimously:

WHEREAS, the following person(s) have met the prescribed requirements and have been nominated pursuant to the procedures outlined in the "Method of Selection" approved by the Grand Valley State University Board of Trustees on June 25, 2004; and

WHEREAS, the Director of the University Charter Schools Office recommends that the following person(s) fill the vacancy and or term(s) on the Academy's Board of Directors;

THEREFORE, BE IT RESOLVED, the Board of Trustees of Grand Valley State University appoints the following person(s) and term(s):

### Black River Public School

* Thomas F. Guarr	3 year term expiring June 30, 2011
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* Barbara A. Zeller	3 year term expiring June 30, 2011
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### Discovery Elementary School

## II. GENERAL REPORTS (cont'd.)

\*Marie E. Kelley

3 year term expiring June  
30, 2011

\*Judith A. Kratzer

3 year term expiring June  
30, 2011

### Endeavor Charter Academy

\*Linda M. Wendt

3 year term expiring June  
30, 2011

### Walker Charter Academy

\*Ross A. Luurtsema

3 year term expiring June  
30, 2011

### West Michigan Academy of Arts and Academics

\*Judy E. Bregman

3 year term expiring June  
30, 2011


\*Represents reappointment

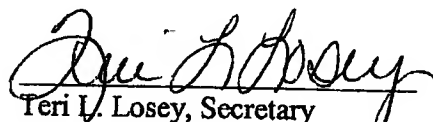
08-2-14 (14) Student Senate Report

08-2-15 (15) President's Report

08-2-16 (16) Motion to Adjourn

RESOLVED, on motion by Mr. Thomas and second by Mrs. Brooks, the meeting was adjourned at 12:03.

  
Lucille S. Taylor, Chair  
Board of Trustees

  
Teri L. Losey, Secretary  
Board of Trustees



**MINUTES**  
**FOR REGULAR MEETING**  
**OF THE BOARD OF TRUSTEES**  
**OF GRAND VALLEY STATE UNIVERSITY**

The second meeting in 2008 of the Board of Trustees of Grand Valley State University was held at the Kirkhof Center on the Allendale Campus of Grand Valley State University on Friday, April 25, 2008.

The following members of the Board were present:

Donna K. Brooks  
Noreen K. Myers  
Shelley E. Padnos  
Lucille S. Taylor, Chair  
Michael D. Thomas  
Kate Pew Wolters  
Thomas J. Haas, President, Ex Officio

The following members of the Board were absent:

Daniel J. Aronoff  
Dorothy A. Johnson

The following Executive and Board officers were present:

Jeanne J. Arnold, Vice President for Inclusion and Equity  
Jim Bachmeier, Vice President for Finance and Administration,  
and Treasurer, Board of Trustees  
Gayle R. Davis, Provost and Vice President for Academic Affairs  
Teri L. Losey, Special Assistant to the President and Secretary, Board of Trustees  
Matthew E. McLogan, Vice President for University Relations  
Maribeth G. Wardrop, Vice President for Development

The meeting was called to order at 11:00 a.m.



I. SECRETARY'S REPORT

(Teri L. Losey)

08-2-1 (1) Approval of Minutes of Prior Meeting

On motion by Mrs. Wolters and second by Ms. Myers, the following resolution was adopted unanimously:

RESOLVED, that the minutes of the meeting, held February 29, 2008, are approved as distributed.

08-2-2 (2) Motion to Adopt Agenda

On motion by Mrs. Brooks and second by Mr. Thomas, the following resolution was adopted unanimously:

RESOLVED, that the Board of Trustees agenda for the April 25, 2008, meeting is approved as distributed.

08-2-3 (3) Commencement Announcements

April Commencement will be held on Saturday, April 26, 2008, at the Van Andel Arena in downtown Grand Rapids. The first ceremony will begin promptly at 10 a.m. and the second promptly at 3 p.m. Additional information regarding robing location, parking arrangements, etc. for the April 26 Commencement ceremonies has been mailed to members of the Board of Trustees.

Additionally, the Traverse City Commencement ceremony will be held on Thursday, May 1, 2008, at the Grand Traverse Resort in Acme, Michigan beginning at 6 p.m.

08-2-4 (4) Bylaw Amendment for Nominating Committee

On motion by Mrs. Wolters and second by Mrs. Brooks, the following resolution was adopted unanimously:

RESOLVED, the Board of Trustees of Grand Valley State University approves the amendment to Article V, Section 5.1 of the Bylaws as presented at this meeting.

Chair Taylor identified the following candidates for the nominating committee:

Dorothy A. Johnson, Chair  
Noreen K. Myers  
Michael D. Thomas

The Board of Trustee election of officers will occur at the July 18, 2008, meeting.

## II. GENERAL REPORTS

### 08-2-5 (5) Personnel Actions

On motion by Mrs. Brooks and second by Mr. Thomas, the following resolution was adopted unanimously:

RESOLVED, that the Board of Trustees approves the personnel actions as reported at this meeting.

### 08-2-6 (6) Gift and Grant Summary

On motion by Mrs. Brooks and second by Mr. Thomas, the following resolution was adopted unanimously:

RESOLVED, that the Board of Trustees gratefully accepts the gifts and grants of \$2,435,209.39 presented at this meeting for January 1, 2008 through February 29, 2008.

### 08-2-7 (7) Revision to Administrative Manual – Chapter 4 – Section 2

On motion by Mr. Thomas and second by Ms. Padnos, the following resolution was adopted unanimously:

RESOLVED, that the Board of Trustees approves the changes to Chapter 4, Section 2.5 – Regular Faculty Rank; Section 2.8 – Academic Tenure; Section 2.9 – Evaluation Criteria for Renewal of Probationary Appointments, Promotion, Tenure, and Periodic Performance Reviews; and Section 2.20 – Salary Administration of the *Administrative Manual*, as presented at this meeting.

### 08-2-8 (8) Revisions to Administrative Manual Chapter 3 – Section C.1

On motion by Mrs. Wolters and second by Mrs. Brooks, the following resolution was adopted unanimously:

RESOLVED, that the Board of Trustees approves the change to Chapter 3, Section C.1 – Undergraduate Degree Programs, of the *Administrative Manual* to rename the undergraduate Public Administration program to Public and Nonprofit Administration.

### 08-2-9 (9) Faculty Achievements

### 08-2-10 (10) 2008-2009 Endowment Fund Spending Rates

## II. GENERAL REPORTS (cont'd.)

On motion by Ms. Padnos and second by Mrs. Wolters, the following resolution was adopted unanimously:

RESOLVED, that the Board of Trustees approves the 2008-2009 Endowment Fund Spending Rates as presented at this meeting.

### 08-2-11 (11) 2008-2009 and Revised 2007-2008 Auxiliary Operating Budgets

On motion by Mrs. Wolters and second by Ms. Myers, the following resolution was adopted unanimously:

RESOLVED, that the Board of Trustees approves the 2008-2009 and Revised 2007-2008 Auxiliary Operating Budgets as presented at this meeting.

### 08-2-12 (12) Preliminary Spending Authority for Fiscal Year 2008-2009

On motion by Mrs. Wolters and second by Ms. Myers, the following resolution was adopted unanimously:

RESOLVED, that the Board of Trustees approves the Preliminary Spending Authority at levels consistent with the 2007-2008 budget for Fiscal Year 2008-2009 until the 2008-2009 budget is adopted.

### 08-2-13 (13) Charter Schools Report

#### I. Resolution Approving the Merger, Transfer of Enrolled Pupils and Property Between University Preparatory Academy and Public School Academies of Detroit; the Termination of the University Preparatory Academy Contract; the Addition of Sites to Public School Academies of Detroit Contract and the Issuance of A Second Contract to Public School Academies of Detroit Comprised of Additional Sites

On motion by Ms. Myers and second by Ms. Padnos, the following resolution was adopted unanimously:

WHEREAS, the Michigan Legislature and Governor recently passed Public Act 1 of 2008 ("PA 1") which, among other things, amends part 6A of the Revised School Code ("Code") by authorizing a public school academy to transfer its enrolled pupils and property to another public school; and

WHEREAS, under the Code, public school academies and urban high school academies are organized as nonprofit corporations in the state of Michigan, subject to the Michigan Non-Profit Corporations Act, MCL 450.2101 et seq. ("Act"); and

## II. GENERAL REPORTS (cont'd.)

WHEREAS, the Act contains provisions which allow two or more non-profit corporations to merge together; and

WHEREAS, according to PA 1, a public school academy is required to seek approval from its authorizing body for the proposed transfer of its enrolled pupils and property before the transfer can be implemented; and

WHEREAS, the University Preparatory Academy ("UPA") board of directors, a public school academy authorized by the Board of Trustees of Grand Valley State University ("University Board"), at its March 10, 2008 meeting, adopted a resolution approving a plan of merger and merger proposal in accordance with the Act that would, among other things, merge UPA into the Public School Academies of Detroit ("Academy") and transfer UPA's enrolled pupils and property to the Academy, an urban high school academy authorized by the University Board; and

WHEREAS, the Academy, at its April 8, 2008 meeting, adopted a resolution approving a plan of merger which, upon the effective date of the merger, will result in UPA and the Academy merging with the Academy being the surviving corporation upon completion of the merger, as well as UPA's enrolled pupils and property being transferred to the Academy; and

WHEREAS, the University Board, as the authorizing body for both UPA and the Academy, has reviewed the proposed plan of merger and hereby agrees to permit (i) UPA to merge into the Academy with the Academy being the surviving corporation upon completion of the merger; and (ii) UPA's enrolled pupils and property to be transferred to the Academy.

NOW, THEREFORE, BE IT RESOLVED:

### APPROVAL OF MERGER AND TRANSFER OF PUPILS AND PROPERTY

1. To the extent required by the Code, the University Board hereby approves:
  - (a) the merger between UPA and the Academy; and
  - (b) the transfer of UPA's property to the Academy.
2. As required by the Code, the University Board hereby approves the transfer of UPA's enrolled pupils to the Academy.
3. UPA and the Academy shall provide the University Charter Schools Office with a copy of the executed plan of merger and all executed agreements and documents in connection with the merger.

II. GENERAL REPORTS (cont'd.)

TERMINATION OF UPA CONTRACT

4. The University Board hereby approves termination of UPA's contract. The effective date of termination shall be the same date that Academy students commence classes for the 2008-2009 school year.

APPROVAL OF ADDITIONAL ACADEMY SITES

5. In accordance with Section 524(1), MCL 380.524(1) of the Code, the University Board hereby approves an amendment of the Academy's contract to include the former UPA school sites and an additional site at the following locations:
- (a) 957 Holden Street, Detroit, MI 48202
  - (b) 5310 St. Antoine Street, Detroit, MI 48202
  - (c) 600 Antoinette Street, Detroit, MI 48202
  - (d) 435 Amsterdam Street, Detroit, MI 48202

ISSUANCE OF A SECOND CONTRACT TO THE ACADEMY

6. In accordance with Section 6.11 of the General Terms and Conditions incorporated into the Academy's contract, dated December 14, 2007, the University Board hereby issues a second contract to the Academy.

II. Resolution Authorizing Site Changes for Public School Academies of Detroit

On motion by Mrs. Wolters and second by Mrs. Brooks, the following resolution was adopted unanimously:

WHEREAS, the Michigan Legislature has provided for the establishment of urban high school academies as part of the Michigan public school system by enacting Act No. 179 of the Public Acts of 2003; and

WHEREAS, according to this law, the Board of Trustees of Grand Valley State University ("Board of Trustees"), as the governing body of a state public university, is an authorizing body empowered to issue contracts to organize and operate urban high school academies; and

WHEREAS, according to this law, the Board of Trustees is empowered to issue one or more contracts to an urban high school academy corporation;

WHEREAS, the Board of Trustees has issued a contract to the Public School Academies of Detroit ("Academy") to operate a school at certain sites known as University Preparatory Science and Math ("UPSM"); and

II. GENERAL REPORTS (cont'd.)

WHEREAS, the Academy, by separate resolution, has requested that the University Board approve site changes for UPSM's temporary facility for the 2008-2009 academic year;

NOW, THEREFORE, BE IT RESOLVED:

In accordance with Section 6.11 of the General Terms and Conditions incorporated into the Academy's contract, dated December 14, 2007, the University Board hereby approves an amendment of the Academy's contract to include the following proposed site for UPSM:

One Campus Martius  
Detroit, Michigan 48226

III. Resolution Authorizing The Issuing A Third Contract to Public School Academies of Detroit Constituting Additional Sites

On motion by Ms. Myers and second by Mrs. Brooks, the following resolution was adopted unanimously:

WHEREAS, the Michigan Legislature has provided for the establishment of urban high school academies as part of the Michigan public school system by enacting Act No. 179 of the Public Acts of 2003; and

WHEREAS, according to this law, the Board of Trustees of Grand Valley State University ("Board of Trustees"), as the governing body of a state public university, is an authorizing body empowered to issue contracts to organize and operate urban high school academies; and

WHEREAS, according to this law, the Board of Trustees is empowered to issue one or more contracts to an urban high school academy corporation;

WHEREAS, the Board of Trustees has issued a contract to the Public School Academies of Detroit ("Academy") to operate a school known as University Preparatory Science & Math; and

WHEREAS, the Board of Trustees, by separate resolution, has approved a merger between the Academy and University Preparatory Academy ("UPA") and has issued a second contract to the Academy to operate a school known as UPA; and

WHEREAS, the Academy Board of Directors, in consultation with the Thompson Education Foundation, the Academy's applicant and contract administrator, has submitted an application to the Board of Trustees for the issuance of a third contract to operate a school known as Henry Ford Academy: School for Creative Studies.

## II. GENERAL REPORTS (cont'd.)

NOW, THEREFORE, BE IT RESOLVED:

1. That the application, submitted under Section 522 of the Revised School Code ("Code"), MCL 380.522, meets the Board of Trustees requirements and the requirements of applicable law and is therefore approved;
2. In accordance with Section 524(1), MCL 380.524(1) of the Code, the University Board hereby approves an amendment of the Academy's contract to include the proposed site for the Henry Ford Academy: School for Creative Studies:

Argonaut Building  
435-485 West Milwaukee  
Detroit, Michigan 48202

3. In accordance with Section 6.11 of the General Terms and Conditions incorporated into the Academy's contract, dated December 14, 2007, the University Board hereby issues a third contract to the Academy provided that, before execution of the contract amendment memorializing this contract, the University President or his designee affirms that all terms of the contract amendment have been agreed upon by the Academy.

## IV. Achieve Charter Academy

On motion by Mrs. Wolters and second by Ms. Myers, the following resolution was adopted unanimously:

WHEREAS, the Michigan Legislature has provided for the establishment of public school academies as part of the Michigan public school system by enacting Act No. 362 of the Public Acts of 1993; and

WHEREAS, according to this legislation, the Grand Valley State University Board of Trustees (the "Board of Trustees"), as the governing body of a state public university, is an authorizing body empowered to issue contracts to organize and operate public school academies; and

WHEREAS, the Michigan Legislature has mandated that public school academy contracts be issued on a competitive basis taking into consideration the resources available for the proposed public school academy, the population to be served by the proposed public school academy, and the educational goals to be achieved by the proposed public school academy; and

## II. GENERAL REPORTS (cont'd.)

WHEREAS, the Grand Valley State University Board of Trustees, having requested applications for organizing public school academies and having reviewed the applications according to the provisions set forth by the Michigan Legislature;

NOW, THEREFORE, BE IT RESOLVED:

1. That the application for Achieve Charter Academy ("Academy"), submitted under Section 502 of the Revised School Code, meets the Board of Trustees' requirements and the requirements of applicable law, is therefore approved;
2. That the Board of Trustees establishes the method of selection, length of term and number of members of the Academy's Board of Directors as follows:

### Method of Selection and Appointment of Academy Board Members:

- a. Initial Academy Board Member Nominations and Appointments: As part of the public school academy application, the public school academy applicant shall propose to the Director of the University Charter Schools Office ("Director"), the names of proposed individuals to serve on the initial board of directors of the proposed public school academy. When the Director recommends an initial contract for approval to the Board of Trustees, he/she shall include recommendations for initial Academy Board members. These recommendations may, but are not required to, include individuals proposed by the public school academy applicant. To be considered for appointment, the nominees must have completed the required board member candidate application materials, including at least (i) the Academy Board Member Questionnaire prescribed by the University Charter Schools Office; and (ii) the Criminal Background Check Report prescribed by the University Charter Schools Office.
- b. Subsequent Academy Board Member Nominations and Appointments: Except as provided in paragraph (2) below, the Academy Board may nominate individuals for subsequent Academy Board of Director positions. As part of the appointment process, the Academy Board may submit to the Director: (i) the name of the nominee; (ii) the board member candidate application materials identified in paragraph (a) above; and (iii) a copy of the Academy Board nominating



## II. GENERAL REPORTS (cont'd.)

resolution. The Director may or may not recommend the proposed nominee submitted by the Academy Board. If the Director does not recommend a nominee submitted by the Academy Board, the Director shall select a nominee and forward that recommendation to the Board of Trustees for appointment. The Board of Trustees shall have the sole and exclusive right to appoint members to the Academy Board.

- c. Exigent Appointments: When the Director determines an "exigent condition" exists which requires him/her to make an appointment to a public school academy's board of directors, the Director, with University President approval, may immediately appoint a person to serve as a public school academy board member for the time specified, but not longer than the next meeting held by the Board of Trustees when a regular appointment may be made by the Board of Trustees. The Director shall make the appointment in writing and notify the public school academy's board of directors of the appointment. Exigent conditions include, but are not limited to when an Academy Board seat is vacant, when a Academy Board cannot reach a quorum, when the Board of Trustees determines that an Academy Board member's service is no longer required, when an Academy Board member is removed, when an Academy Board fails to fill a vacancy, or other reasons which would prohibit the Academy Board from taking action without such an appointment.
3. Qualifications of Academy Board Members: To be qualified to serve on the Academy Board, a person shall: (a) be a citizen of the United States; (b) reside in the State of Michigan; (c) submit all materials requested by the GVSU Charter Schools Office including, but not limited to, a GVSU Academy Board Member Questionnaire and a release for criminal history background check; (d) not be an employee of the Academy; (e) not be a director, officer, or employee of a company or other entity that contracts with the Academy; and (f) not be an employee or representative of GVSU or be a member of the Board of Trustees.
4. Oath /Acceptance of Office / Voting Rights: Following appointment by the Board of Trustees, Academy Board Appointees may begin their legal duties, including the right to vote, after they have signed an Acceptance of Public Office form and taken the Oath or Affirmation of Public Office administered by a member of the Academy Board, other public official or notary public.

## II. GENERAL REPORTS (cont'd.)

5. Length of Term; Removal: An appointed Academy Board member is an "at will" board member who shall serve at the pleasure of the Board of Trustees for a term of office not to exceed three (3) years. Regardless of the length of term, terms shall end on June 30 of the final year of service, unless shorter due to other provisions of this resolution. A person appointed to serve as an Academy Board member may be reappointed to serve additional terms. When an Academy Board member is appointed to complete the term of service of another Academy Board member, their service ends at the end of the previous Academy Board member's term.

If the Board of Trustees determines that an Academy Board member's service in office is no longer required, then the Board of Trustees may remove an Academy board member with or without cause and shall specify the date when the Academy Board member's service ends. An Academy Board member may be removed from office by a two-thirds (2/3) vote of the Academy's Board for cause.

6. Resignations: A member of the Academy Board may resign from office by submitting a written resignation or by notifying the Director. The resignation is effective upon receipt by the Director, unless a later date is specified in the resignation. A written notice of resignation is not required. If no such written notification is provided, then the Director shall confirm a resignation in writing. The resignation shall be effective upon the date the Director sends confirmation to the resigning Academy Board member.
7. Vacancy: An Academy Board position shall be considered vacant when an Academy Board member:
- a. Resigns
  - b. Dies
  - c. Is removed from Office
  - d. Is convicted of a felony
  - e. Ceases to be qualified
  - f. Is incapacitated
8. Filling a Vacancy: The Academy Board may nominate and the Director shall recommend or temporarily appoint persons to fill a vacancy as outlined in the "Subsequent Appointments" and "Exigent Appointments" procedures in this resolution.
9. Number of Academy Board Member Positions: The number of member positions of the Academy Board of Directors shall be five (5), seven (7) or nine (9), as determined from time to time by the Academy Board.

II. GENERAL REPORTS (cont'd.)

10. Quorum: In order to legally transact business the Academy Board shall have a quorum physically present at a duly called meeting of the Academy Board. A "quorum" shall be defined as follows:

# of Academy Board positions	# required for Quorum
Five (5)	Three (3)
Seven (7)	Four (4)
Nine (9)	Five (5)

11. Manner of Acting: The Academy Board shall be considered to have "acted," when a duly called meeting of the Academy Board has a quorum present and the number of board members voting in favor of an action is as follows:

# of Academy Board positions	# for Quorum	# required to act
Five (5)	Three (3)	Three (3)
Seven (7)	Four (4)	Four (4)
Nine (9)	Five (5)	Five (5)

12. Initial Members of the Board of Directors: The Grand Valley State University Board of Trustees appoints the following persons to serve as the initial members of the Academy's Board of Directors for the designated term of office set forth below:

Charles N. Ash, Jr.	3 year term expiring June 30, 2011
Adelaide E. Jackson	3 year term expiring June 30, 2011
Heather A. Kellstrom	2 year term expiring June 30, 2010
Laura S. Packer	1 year term expiring June 30, 2009

13. The Board of Trustees approves and authorizes the execution of a contract to charter a public school academy to the Academy and authorizes the University President or designee to issue a contract to charter a public school academy and related documents ("Contract") to the Academy, provided that, before execution of the Contract, the University President or designee affirms that all terms of the contract have been agreed upon and the Academy is able to comply with all terms and conditions of the Contract and Applicable Law. This resolution shall be incorporated in and made part of the Contract.
14. Within ten days after the Board of Trustees issues the Contract, the Director will submit the Contract to the Michigan Department of Education. Pursuant to the State School Aid Act of 1979, the Michigan Department of Education shall, within thirty days after the Contract is submitted to the Michigan Department of Education, issue a district code number to each public school academy that is authorized under the Revised School Code and is eligible to receive

## II. GENERAL REPORTS (cont'd.)

funding under the State School Aid Act. By approving and issuing the Contract, the Board of Trustees is not responsible for the Michigan Department of Education's issuance or non-issuance of a district code number. As a condition precedent to the Board of Trustees' issuance of the Contract, the Applicant, the Academy and the Academy's Board of Directors shall acknowledge and agree that the Board of Trustees, Grand Valley State University, its officers, employees and agents are not responsible for any action taken by the Academy in reliance upon the Michigan Department of Education's issuance of a district code number to the Academy, or for any Michigan Department of Education's decision resulting in the non-issuance of a district code number to the Academy.

### V. Reauthorization of Charter Contract

#### Warrendale Charter Academy, Detroit (7 year)

On motion by Mrs. Brooks and second by Ms. Myers, the following resolution was adopted unanimously:

WHEREAS, the Board of Trustees of Grand Valley State University at its meeting on June 18, 2001, authorized the issuance of a contract to charter a public school academy to Warrendale Charter Academy (the "Academy") with an effective date of June 18, 2001.

NOW, THEREFORE, BE IT RESOLVED:

1. The Board of Directors of the Academy were selected in accordance with the resolution adopted by the Grand Valley State University Board of Trustees establishing the method of selection, length of term, and number of members of the Academy Board. This resolution is incorporated in and made part of the contract as Schedule 1.
2. The contract of this Academy is due to expire on June 30, 2008.
3. The University's Charter Schools Office has completed its evaluation and assessment of the operation and performance of the Academy.
4. The Board of Trustees of Grand Valley State University may consider there issuance of a contract to charter following an evaluation and assessment by the University's Charter Schools Office that concludes that the operation and performance of the academy warrants the reissuance of a contract.
5. The present Board of Directors of the Academy has requested the reissuance of a contract to charter as a public school academy.

## II. GENERAL REPORTS (cont'd.)

6. The University President or his designee has recommended the reissuance of a contract to charter as a public school academy to the Academy for a seven (7) year term beginning July 1, 2008 and ending June 30, 2015.
7. The Grand Valley State University Board of Trustees approves and reauthorizes the execution of a contract to charter a public school academy to the Academy and authorizes the University President or designee to execute the contract to charter a public school academy and related documents to the Academy for a seven (7) year term, provided that, before the execution of the contract, the University President or designee affirms that all terms of the contract have been agreed upon and the Academy is able to comply with all terms and conditions of the contract and applicable law. This resolution shall be incorporated in and made part of the contract as Schedule 1.

### VI. Amendment to Charter School Contract

#### Muskegon Technical Academy

On motion by Mrs. Wolters and second by Ms. Myers, the following resolution was adopted unanimously:

RESOLVED, that the Board of Trustees of Grand Valley State University approves an amendment to the Contract to Charter a Public School Academy and Schedule 2, Articles of Incorporation, between Muskegon Technical Academy and Grand Valley State University Board of Trustees to reflect a change in the school name to WayPoint Academy.

### VII. Restated Reach Charter Academy

On motion by Ms. Myers and second by Ms. Padnos, the following resolution was adopted unanimously:

WHEREAS, the Michigan Legislature has provided for the establishment of public school academies as part of the Michigan public school system by enacting Act No. 362 of the Public Acts of 1993; and

WHEREAS, according to this legislation, the Grand Valley State University Board of Trustees (the "Board of Trustees"), as the governing body of a state public university, is an authorizing body empowered to issue contracts to organize and operate public school academies; and

WHEREAS, the Michigan Legislature has mandated that public school academy contracts be issued on a competitive basis taking into

## II. GENERAL REPORTS (cont'd.)

consideration the resources available for the proposed public school academy, the population to be served by the proposed public school academy, and the educational goals to be achieved by the proposed public school academy; and

WHEREAS, the Grand Valley State University Board of Trustees, having requested applications for organizing public school academies and having reviewed the applications according to the provisions set forth by the Michigan Legislature;

NOW, THEREFORE, BE IT RESOLVED:

1. That the application for Reach Charter Academy ("Academy"), submitted under Section 502 of the Revised School Code, meets the Board of Trustees' requirements and the requirements of applicable law, is therefore approved;
2. That the Board of Trustees establishes the method of selection, length of term and number of members of the Academy's Board of Directors as follows:

### Method of Selection and Appointment of Academy Board Members:

- a. Initial Academy Board Member Nominations and Appointments: As part of the public school academy application, the public school academy applicant shall propose to the Director of the University Charter Schools Office ("Director"), the names of proposed individuals to serve on the initial board of directors of the proposed public school academy. When the Director recommends an initial contract for approval to the Board of Trustees, he/she shall include recommendations for initial Academy Board members. These recommendations may, but are not required to, include individuals proposed by the public school academy applicant. To be considered for appointment, the nominees must have completed the required board member candidate application materials, including at least (i) the Academy Board Member Questionnaire prescribed by the University Charter Schools Office; and (ii) the Criminal Background Check Report prescribed by the University Charter Schools Office.
- b. Subsequent Academy Board Member Nominations and Appointments: Except as provided in paragraph (2) below, the Academy Board may nominate individuals for subsequent Academy Board of Director positions. As part of the appointment process, the Academy Board may submit to the

## II. GENERAL REPORTS (cont'd.)

Director: (i) the name of the nominee; (ii) the board member candidate application materials identified in paragraph (a) above; and (iii) a copy of the Academy Board nominating resolution. The Director may or may not recommend the proposed nominee submitted by the Academy Board. If the Director does not recommend a nominee submitted by the Academy Board, the Director shall select a nominee and forward that recommendation to the Board of Trustees for appointment. The Board of Trustees shall have the sole and exclusive right to appoint members to the Academy Board.

- c. Exigent Appointments: When the Director determines an "exigent condition" exists which requires him/her to make an appointment to a public school academy's board of directors, the Director, with University President approval, may immediately appoint a person to serve as a public school academy board member for the time specified, but not longer than the next meeting held by the Board of Trustees when a regular appointment may be made by the Board of Trustees. The Director shall make the appointment in writing and notify the public school academy's board of directors of the appointment. Exigent conditions include, but are not limited to when an Academy Board seat is vacant, when a Academy Board cannot reach a quorum, when the Board of Trustees determines that an Academy Board member's service is no longer required, when an Academy Board member is removed, when an Academy Board fails to fill a vacancy, or other reasons which would prohibit the Academy Board from taking action without such an appointment.
3. Qualifications of Academy Board Members: To be qualified to serve on the Academy Board, a person shall: (a) be a citizen of the United States; (b) reside in the State of Michigan; (c) submit all materials requested by the GVSU Charter Schools Office including, but not limited to, a GVSU Academy Board Member Questionnaire and a release for criminal history background check; (d) not be an employee of the Academy; (e) not be a director, officer, or employee of a company or other entity that contracts with the Academy; and (f) not be an employee or representative of GVSU or be a member of the Board of Trustees.
4. Oath /Acceptance of Office / Voting Rights: Following appointment by the Board of Trustees, Academy Board Appointees may begin their legal duties, including the right to vote, after they have signed an Acceptance of Public Office form and taken the Oath or Affirmation

## II. GENERAL REPORTS (cont'd.)

of Public Office administered by a member of the Academy Board, other public official or notary public.

5. Length of Term; Removal: An appointed Academy Board member is an "at will" board member who shall serve at the pleasure of the Board of Trustees for a term of office not to exceed three (3) years. Regardless of the length of term, terms shall end on June 30 of the final year of service, unless shorter due to other provisions of this resolution. A person appointed to serve as an Academy Board member may be reappointed to serve additional terms. When an Academy Board member is appointed to complete the term of service of another Academy Board member, their service ends at the end of the previous Academy Board member's term.

If the Board of Trustees determines that an Academy Board member's service in office is no longer required, then the Board of Trustees may remove an Academy board member with or without cause and shall specify the date when the Academy Board member's service ends. An Academy Board member may be removed from office by a two-thirds (2/3) vote of the Academy's Board for cause.

6. Resignations: A member of the Academy Board may resign from office by submitting a written resignation or by notifying the Director. The resignation is effective upon receipt by the Director, unless a later date is specified in the resignation. A written notice of resignation is not required. If no such written notification is provided, then the Director shall confirm a resignation in writing. The resignation shall be effective upon the date the Director sends confirmation to the resigning Academy Board member.
7. Vacancy: An Academy Board position shall be considered vacant when an Academy Board member:
  - a. Resigns
  - b. Dies
  - c. Is removed from Office
  - d. Is convicted of a felony
  - e. Ceases to be qualified
  - f. Is incapacitated
8. Filling a Vacancy: The Academy Board may nominate and the Director shall recommend or temporarily appoint persons to fill a vacancy as outlined in the "Subsequent Appointments" and "Exigent Appointments" procedures in this resolution.



## II. GENERAL REPORTS (cont'd.)

9. Number of Academy Board Member Positions: The number of member positions of the Academy Board of Directors shall be five (5), seven (7) or nine (9), as determined from time to time by the Academy Board.
10. Quorum: In order to legally transact business the Academy Board shall have a quorum physically present at a duly called meeting of the Academy Board. A "quorum" shall be defined as follows:

# of Academy Board positions	# required for Quorum
Five (5)	Three (3)
Seven (7)	Four (4)
Nine (9)	Five (5)

11. Manner of Acting: The Academy Board shall be considered to have "acted," when a duly called meeting of the Academy Board has a quorum present and the number of board members voting in favor of an action is as follows:

# of Academy Board positions	# for Quorum	# required to act
Five (5)	Three (3)	Three (3)
Seven (7)	Four (4)	Four (4)
Nine (9)	Five (5)	Five (5)

12. Initial Members of the Board of Directors: The Grand Valley State University Board of Trustees appoints the following persons to serve as the initial members of the Academy's Board of Directors for the designated term of office set forth below:

Harry A. Briggs	2 year term expiring June 30, 2010
Lisa M. Klobucar	3 year term expiring June 30, 2011
Deborah B. Lowery	1 year term expiring June 30, 2009
Eira W. Moore	3 year term expiring June 30, 2011

13. The Board of Trustees approves and authorizes the execution of a contract to charter a public school academy to the Academy and authorizes the University President or designee to issue a contract to charter a public school academy and related documents ("Contract") to the Academy, provided that, before execution of the Contract, the University President or designee affirms that all terms of the contract have been agreed upon and the Academy is able to comply with all terms and conditions of the Contract and Applicable Law. This resolution shall be incorporated in and made part of the Contract.
14. Within ten days after the Board of Trustees issues the Contract, the Director will submit the Contract to the Michigan Department of

## II. GENERAL REPORTS (cont'd.)

Education. Pursuant to the State School Aid Act of 1979, the Michigan Department of Education shall, within thirty days after the Contract is submitted to the Michigan Department of Education, issue a district code number to each public school academy that is authorized under the Revised School Code and is eligible to receive funding under the State School Aid Act. By approving and issuing the Contract, the Board of Trustees is not responsible for the Michigan Department of Education's issuance or non-issuance of a district code number. As a condition precedent to the Board of Trustees' issuance of the Contract, the Applicant, the Academy and the Academy's Board of Directors shall acknowledge and agree that the Board of Trustees, Grand Valley State University, its officers, employees and agents are not responsible for any action taken by the Academy in reliance upon the Michigan Department of Education's issuance of a district code number to the Academy, or for any Michigan Department of Education's decision resulting in the non-issuance of a district code number to the Academy.

## VIII. Appointment of Charter School Board of Directors

On motion by Mrs. Wolters and second by Mrs. Brooks, the following resolution was adopted unanimously:

WHEREAS, the following person(s) have met the prescribed requirements and have been nominated pursuant to the procedures outlined in the "Method of Selection" approved by the Grand Valley State University Board of Trustees on June 25, 2004; and

WHEREAS, the Director of the University Charter Schools Office recommends that the following person(s) fill the vacancy and or term(s) on the Academy's Board of Directors;

THEREFORE, BE IT RESOLVED, the Board of Trustees of Grand Valley State University appoints the following person(s) and term(s):

### Black River Public School

- |                     |                                    |
|---------------------|------------------------------------|
| * Thomas F. Guarr   | 3 year term expiring June 30, 2011 |
| * Barbara A. Zeller | 3 year term expiring June 30, 2011 |

### Discovery Elementary School

II. GENERAL REPORTS (cont'd.)

\*Marie E. Kelley 3 year term expiring June 30, 2011

\*Judith A. Kratzer 3 year term expiring June 30, 2011

Endeavor Charter Academy

\*Linda M. Wendt 3 year term expiring June 30, 2011

Walker Charter Academy

\*Ross A. Luurtsema 3 year term expiring June 30, 2011

West Michigan Academy of Arts and Academics

\*Judy E. Bregman 3 year term expiring June 30, 2011


\*Represents reappointment

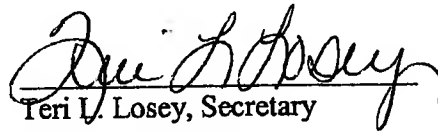
08-2-14 (14) Student Senate Report

08-2-15 (15) President's Report

08-2-16 (16) Motion to Adjourn

RESOLVED, on motion by Mr. Thomas and second by Mrs. Brooks, the meeting was adjourned at 12:03.

  
Lucille S. Taylor, Chair  
Board of Trustees

  
Teri L. Losey, Secretary  
Board of Trustees



**CERTIFIED COPY OF RESOLUTION ADOPTED BY THE BOARD OF TRUSTEES OF  
GRAND VALLEY STATE UNIVERSITY ON APRIL 28, 2006:**

**06-3-14      (14)    Charter Schools Report**

On motion by Ms. Brooks and second by Mrs. Wolters, the following resolution was adopted unanimously:

WHEREAS, the Michigan Legislature has provided for the establishment of urban high school academies as part of the Michigan public school system by enacting Act No. 179 of the Public Acts of 2003; and

WHEREAS, according to this legislation, the Board of Trustees of Grand Valley State University ("University Board"), as the governing body of a state public university, is an authorizing body empowered to issue contracts to organize and operate urban high school academies; and

WHEREAS, the Michigan Legislature has mandated that urban high school academy contracts be issued on a competitive basis taking into consideration the resources available for the proposed urban high school academy, the population to be served by the proposed public school academy, and the educational goals to be achieved by the proposed urban high school academy; and

WHEREAS, the University Board, having received applications for organizing urban high school academies, and having examined the ability of the proposed performance standards, proposed academic program, financial viability of the applicant, and the ability of the proposed urban high school academy board of directors to meet the contract goals and objectives;

**NOW, THEREFORE, BE IT RESOLVED:**

**AUTHORIZING RESOLUTION FOR PUBLIC SCHOOL ACADEMIES  
OF DETROIT ("ACADEMY")**

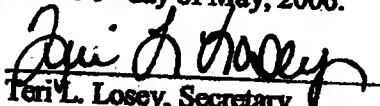
1. That the application for Public School Academies of Detroit ("Academy"), submitted under Section 522 of the Revised School Code, MCL 380.522, meets the University Boards requirements and the requirements of applicable law and is therefore approved;

2. Pursuant to the Method of Selection Resolution adopted by the University Board, the following seven (7) persons are appointed as the initial board of directors for the Academy:

Ms. Jean Baker	2 year term
Dr. Deborah Ball	2 year term
Mr. David Bing	3 year term
Mr. James Nicholson	3 year term
Mr. Edward Parks	3 year term
Mr. Dan Varner	1 year term
Ms. Joann Williams	1 year term

3. The University Board approves and authorizes the issuance of a contract to charter an urban high school academy to the Academy and authorizes the Chairperson of the University Board to execute a contract to charter an urban high school academy and related documents issued by the University Board to the Academy, provided that, before execution of the contract, the University President or his designee affirms that all terms of the contract have been agreed upon and the Academy is able to comply with all terms and conditions of the contract.

IN WITNESS WHEREOF, I have hereunto signed my name as Secretary and have caused the seal of said body corporate to be hereto affixed this 8<sup>th</sup> day of May, 2006.

  
Teri L. Losey, Secretary  
Board of Trustees  
Grand Valley State University





CERTIFIED COPY OF RESOLUTION ADOPTED BY THE BOARD OF TRUSTEES OF  
GRAND VALLEY STATE UNIVERSITY ON APRIL 28, 2006:

06-3-14

(14) Charter Schools Report

Method of Selection Resolution

On motion by Ms. Myers and second by Mrs. Johnson, the following  
resolution was adopted unanimously:

URBAN HIGH SCHOOL ACADEMY BOARD OF DIRECTORS:  
METHOD OF SELECTION AND APPOINTMENT

WHEREAS, the Board of Trustees of Grand Valley State University  
("University Board") is interested in issuing contracts to urban high school  
academies, under PA 179 of 2003; and

WHEREAS, MCL 380.528(1)(c) of the Revised School Code ("Code")  
provides that an authorizing body shall "adopt a resolution establishing the  
method of selection, length of term, and number of members of the board  
of directors of each urban high school academy that it authorizes," and

WHEREAS, the University Board has determined that each contract  
issued by the University Board shall contain the following method of  
selection and appointment process until otherwise amended by the  
University Board;

NOW, THEREFORE, BE IT RESOLVED:

The following method of selection and appointment process for Urban  
High School Academy Board members applies to all urban high school  
academies authorized by the University Board:

1. Method of Selection and Appointment of Urban High School  
Board Members:
  - a. Initial Urban High School Academy Board Member  
Nominations and Appointments: As part of the  
urban high school academy application, the  
applicant shall propose to the University Charter  
Schools Office Director ("CSO Director"), the  
names of proposed individuals to serve on the initial  
board of directors of the proposed urban high school

academy ("Academy Board"). When the CSO Director recommends an initial contract for approval to the University Board, he/she shall include recommendations for initial Academy Board members. These recommendations may, but are not required to, include individuals proposed by the urban high school academy applicant ("Applicant"). To be considered for appointment, the nominees must have completed the required board member candidate application materials, including at least (i) the Urban High School Academy Board Member Questionnaire prescribed by the University Charter Schools Office; and (ii) the Criminal Background and History Check Report prescribed by the University Charter Schools Office.

- b. Subsequent Urban High School Academy Board Member Nominations and Appointments: Except as provided in paragraph (2) below, the Academy Board may nominate individuals for subsequent Academy Board member positions. As part of the appointment process, the Academy Board may submit to the CSO Director: (i) the name of the nominee; (ii) the board member candidate application materials identified in paragraph (a) above; and (iii) a copy of the Academy Board nominating resolution. The CSO Director may or may not recommend the proposed nominee submitted by the Academy Board. If the CSO Director does not recommend a nominee submitted by the Academy Board, the CSO Director shall select a nominee and forward that recommendation to the University Board for appointment. The University Board shall have the sole and exclusive right to appoint members to the Academy Board.
- c. Exigent Appointments: When the CSO Director determines an "exigent condition" exists which requires him/her to make an appointment to an Academy Board, the CSO Director, with University President approval, may immediately appoint a person to serve as an Academy Board member for the time specified, but not longer than the next meeting held by the University Board when a regular appointment may be made by the University Board. The CSO Director shall make the appointment in writing and notify the Academy Board of the appointment. Exigent conditions include, but are not limited to when an Academy Board seat is vacant, when a Academy Board cannot reach a quorum, when the University Board



determines that an Academy Board member's service is no longer required, when an Academy Board member is removed, when an Academy Board fails to fill a vacancy, or other reasons which would prohibit the Academy Board from taking action without such an appointment.

2. Qualifications of Academy Board Members: To be qualified to serve on the Academy Board, a person shall: (a) be a citizen of the United States; (b) reside in the State of Michigan; (c) submit all materials requested by the University Charter Schools Office including, but not limited to, a Urban High School Academy Board Member Questionnaire and a release for criminal records and history background check; (d) not be an employee of the Academy; (e) not be a director, officer, or employee of a company or other entity that contracts with the Academy; and (f) not be an employee or representative of the University or be a member of the University Board.
3. Oath /Acceptance of Office/Voting Rights: Following appointment by the University Board, Academy Board appointees may begin their legal duties, including the right to vote, after they have signed an Acceptance of Public Office form and taken the Oath or Affirmation of Public Office administered by a member of the Academy Board, other public official or notary public.
4. Length of Term: Removal: An appointed Academy Board member is an "at will" board member who shall serve at the pleasure of the University Board for a term of office not to exceed three (3) years. Regardless of the length of term, terms shall end on June 30 of the final year of service, unless shorter due to other provisions of this resolution. A person appointed to serve as an Academy Board member may be reappointed to serve additional terms. When an Academy Board member is appointed to complete the term of service of another Academy Board member, their service ends at the end of the previous Academy Board member's term.  
  
If the University Board determines that an Academy Board member's service in office is no longer required, then the University Board may remove an Academy Board member with or without cause and shall specify the date when the Academy Board member's service ends. An Academy Board member may also be removed from office by a two-thirds (2/3) vote of the Academy Board for cause.
5. Resignations: A member of the Academy Board may resign from office by submitting a written resignation or by notifying the CSO Director. The resignation is effective upon receipt by the CSO Director unless a later date is specified in the resignation. A written notice of resignation is not required. If no such written notification is is provided, then the CSO Director shall confirm a

resignation in writing. The resignation shall be effective upon the date the CSO Director sends confirmation to the resigning Academy Board member.

6. Vacancy: An Academy Board position shall be considered vacant when an Academy Board member:

- a. Resigns
- b. Dies
- c. Is removed from office
- d. Is convicted of a felony
- e. Ceases to be qualified
- f. Is incapacitated

7. Filling a Vacancy: The Academy Board may nominate and the CSO Director shall recommend or temporarily appoint persons to fill a vacancy as outlined in the "Subsequent Appointments" and "Exigent Appointment" procedures in this resolution.

8. Number of Academy Board Member Positions: The number of Academy Board member positions shall be five (5), seven (7) or nine (9), as determined from time to time by the Academy Board.

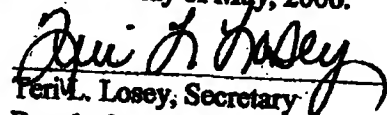
9. Quorum: In order to legally transact business the Academy Board shall have a quorum physically present at a duly called meeting of the Academy Board. A "quorum" shall be defined as follows:

# of Academy Board positions	# required for Quorum
Five (5)	Three (3)
Seven (7)	Four (4)
Nine (9)	Five (5)

10. Manner of Acting: The Academy Board shall be considered to have "acted," when a duly called meeting of the Academy Board has a quorum present and the number of board members voting in favor of an action is as follows:

# of Academy Board positions	# for Quorum	# required to act
Five (5)	Three (3)	Three (3)
Seven (7)	Four (4)	Four (4)
Nine (9)	Five (5)	Five (5)

IN WITNESS WHEREOF, I have hereunto signed my name as Secretary and have caused the seal of said body corporate to be hereto affixed this 8<sup>th</sup> day of May, 2006.

  
Teri L. Losey, Secretary  
Board of Trustees  
Grand Valley State University



## **SCHEDULE 2**

### **ARTICLES OF INCORPORATION**

The articles of incorporation are attached.

- Articles of Incorporation, filed May 31, 2007
- Certificate of Merger, filed June 30, 2008

MICHIGAN DEPARTMENT OF LABOR & ECONOMIC GROWTH BUREAU OF COMMERCIAL SERVICES		
Date Received	ADJUSTED PURSUANT TO TELEPHONE AUTHORIZATION	(FOR BUREAU USE ONLY)
MAY 30 2007	Pat	FILED MAY 31 2007 Administrator BUREAU OF COMMERCIAL SERVICES
<div style="border: 1px solid black; padding: 5px;"> Edward Parks 727 Harmon Birmingham, Michigan 48009 </div>		EFFECTIVE DATE:
Document will be returned to the name and address you enter above		
		70137U

**ARTICLES OF INCORPORATION**  
For Use by Domestic Nonprofit Corporations

OF

**THE PUBLIC SCHOOL ACADEMIES OF DETROIT**

Pursuant to the provisions of the Michigan Nonprofit Corporation Act of 1982, as amended (the "Act"), being MCL 450.2101 et seq., and Part 6C of the Revised School Code (the "Code") as amended, being Sections 380.521 et seq. of the Michigan Compiled Laws, the undersigned corporation executes the following Articles:

**ARTICLE I**

The name of the corporation is: The Public School Academies of Detroit (the "Academy").

The authorizing body for the corporation is: The Grand Valley State University Board of Trustees.

**ARTICLE II**

The purpose or purposes for which the corporation is organized are:

1. The corporation is organized for the purpose of operating as a urban high school academy in the State of Michigan pursuant to Part 6C of the Code, being Sections 380.521 et seq. of the Michigan Compiled Laws.

8  
70.0 CKPB 95572<sup>1</sup>

2. The corporation, including all activities incident to its purposes, shall at all times be conducted so as to be a governmental entity pursuant to Section 115 of the United States Internal Revenue Code ("IRC") or any successor law. Notwithstanding any other provision of these Articles, the corporation shall not carry on any other activity not permitted to be carried on by a governmental instrumentality exempt from federal income tax under Section 115 of the IRC or by a nonprofit corporation organized under the laws of the State of Michigan and subject to a Contract authorized under the Code.

### ARTICLE III

The corporation is organized on a non-stock, directorship basis.

The value of assets which the corporation possesses is:

Real Property: \$0.

Personal Property: \$1,000.00. *Cash*

The corporation is to be financed under the following general plan:

- a. State school aid payments received pursuant to the State School Aid Act of 1979 or any successor law.
- b. Federal funds.
- c. Donations.
- d. Fees and charges permitted to be charged by urban high school academies.
- e. Other funds lawfully received.

### ARTICLE IV

The address of the registered office is 727 Harmon, Birmingham, Michigan 48009.

The mailing address of the registered office is the same.

The name of the resident agent at the registered office is Edward Parks.

### ARTICLE V

The name and address of the incorporator is as follows: Edward Parks  
727 Harmon  
Birmingham, Michigan 48009

### ARTICLE VI

The corporation is a governmental entity and a political subdivision of the State of Michigan.

## **ARTICLE VII**

The corporation and its incorporators, board members, officers, employees, and volunteers have governmental immunity as provided in section 7 of Act No. 170 of the Public Acts of 1964, being section 691.1407 of the Michigan Compiled Laws.

## **ARTICLE VIII**

Before a contract to charter a urban high school academy is issued by the Grand Valley State University Board of Trustees (the "University Board"), the method of selection, length of term, and the number of members of the board of directors of the corporation (the "Board of Directors") shall be approved by a resolution of the University Board as required by the Code.

## **ARTICLE IX**

The Board of Directors shall have all the powers and duties permitted by law to manage the business, property and affairs of the corporation.

## **ARTICLE X**

The officers of the corporation shall be a President, Vice-President, Secretary and a Treasurer, each of whom shall be a member of the Board of Directors and shall be selected by the Board of Directors. The Board of Directors may select one or more assistants to the Secretary or Treasurer, and may also appoint such other agents as it may deem necessary for the transaction of the business of the corporation.

## **ARTICLE XI**

No part of the net earnings of the corporation shall inure to the benefit of or be distributable to its directors, board, officers or other private persons, or organization organized and operated for a profit (except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in the furtherance of the purposes set forth in Article II hereof). Notwithstanding any other provision of these Articles, the corporation shall not carry on any other activities not permitted to be carried on by a governmental entity exempt from federal income tax under section 115 of the IRC, or comparable provisions of any successor law.

## **ARTICLE XII**

If the corporation's contract to operate a urban high school academy is terminated, not renewed or is revoked by the University Board, title to all real and personal property, interest in real or personal property, and other assets owned by the corporation shall revert to the State of Michigan. The corporation's property shall be distributed as follows:

Within 30 days following the termination, non-renewal or revocation, the board of directors of the corporation shall hold a public meeting to adopt a plan of distribution of assets and to approve the dissolution of the urban high school academy corporation, all in accordance with chapter 8 of the Act.

The corporation's board of directors shall file a certificate of dissolution with the Michigan Department of Labor and Economic Growth or such successor department within 10 business days following board approval.

Simultaneously with the filing of the certificate of dissolution, the corporation's board of directors shall provide a copy of the plan of distribution of assets to the State Treasurer for approval. Within 30 days, the State Treasurer, or his or her designee, shall review and approve the plan of distribution of assets. If the proposed plan of distribution of assets is not approved within 30 days, the State Treasurer, or his or her designee, shall provide the corporation's board of directors with an acceptable plan of distribution of assets.

The State Treasurer, or his or her designee, shall monitor the corporation's winding up of the dissolved corporation in accordance with the approved plan of distribution of assets.

As part of the plan of distribution of assets, the corporation's board of directors shall designate the Director of the Michigan Department of Management and Budget, or his or her designee, to dispose of all real property of the urban high school academy corporation in accordance with the directives developed for disposition of surplus land and facilities under section 251 of the Management and Budget Act, 1984 PA 431, MCL 18.1251.

If the corporation's board of directors fails to take necessary action under the Code to effectuate a dissolution and winding up of the corporation, the State Treasurer, or his or her designee, may suspend the corporation's board of directors and appoint a trustee to carry out the plan of distribution of assets that was adopted by the corporation's board of directors or that was provided by the State Treasurer. Upon appointment, the trustee shall have all the rights, powers, and privileges under law that the corporation's board of directors had prior to suspension of their appointments to public office.

Following the sale of the real or personal property or interests in the real or personal property, and after payment of any corporation debt secured by the property or interest in property, whether real or personal, the corporation's board of directors, or a trustee appointed by the State Treasurer, shall forward any remaining money to the State Treasurer. Following receipt, the State Treasurer, or his or her designee, shall deposit any remaining monies in the state school aid fund established under article IX, section 11 of the Constitution of the State of Michigan of 1963, as amended.

### **ARTICLE XIII**

These Articles of Incorporation shall not be amended except by the process provided in Article IX of the Terms and Conditions incorporated as part of the Contract issued to the corporation by the University Board. This process is as follows:

The corporation's board of directors, or any authorized designee of the corporation's board of directors, may propose changes to the corporation's articles of incorporation. The corporation shall be authorized to make such changes to the corporation's articles of incorporation upon a majority vote of the University Board members attending a University Board meeting. Upon University Board approval, the authorized designee of the corporation's

board of directors is authorized to file the amendment to the corporation's articles of incorporation with the Michigan Department of Labor and Economic Growth's Bureau of Commercial Services. Upon receipt of the filed amendment, the corporation shall forward the filed amendment to the University Charter Schools Office. The filed amendment shall be automatically incorporated into Schedule 2 of the Contract upon receipt of the amendment by the University Charter Schools Office. If the University identifies a provisions in the Articles of Incorporation that violates or conflicts with another provision of the Contract, due to a change in law or for other reasons, after approval have been given, the University shall notify the corporation's board of directors in writing and the corporation's board of directors shall amend the articles of incorporation to make them consistent with the Contract. If the change is requested by the University, the University shall reimburse the corporation for the filing fees payable to the State of Michigan, Michigan Department of Labor and Economic Growth.

#### **ARTICLE XIV**

A volunteer director or volunteer officer of this corporation is not personally liable to the corporation for monetary damages for a breach of such director's or officer's fiduciary duty, except that nothing herein shall be construed to eliminate or limit the liability of a volunteer director or volunteer officer for any of the following:

- a A breach of the director's or officer's duty of loyalty to the corporation.
- b Acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law.
- c A violation of Section 551(1) of the Act.
- d A transaction from which the director or officer derived an improper personal benefit.
- e An act or omission that is grossly negligent.

The corporation assumes all liability to any person other than the corporation for all acts or omissions of a volunteer director or officer incurred in the good faith performance of the volunteer director's or officer's duties.

This Article shall be construed broadly to provide immunity to the fullest extent permitted by law as of the date of these Articles, or by any subsequent amendment to such law or any future law permitting greater immunity. Any repeal or modification of this Article by the corporation shall not adversely affect any right or protection of any volunteer director or volunteer officer of the corporation existing at the time of such acts or omissions occurring before such repeal or modification.

#### **ARTICLE XV**

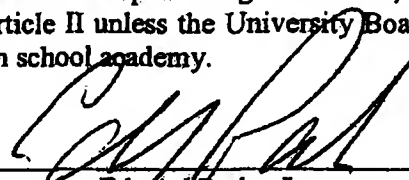
The definitions set forth in the Terms and Conditions incorporated as part of the Contract shall have the same meaning in these Articles of Incorporation.



### ADOPTION OF ARTICLES

These Articles of Incorporation were duly adopted on this 15 day of March, 2007. These Articles of Incorporation shall become effective upon filing. However, the corporation shall not carry out the purposes set forth in Article II unless the University Board issues to the corporation a contract to operate as a urban high school academy.

By: \_\_\_\_\_



Edward Parks, Incorporator



<b>MICHIGAN DEPARTMENT OF LABOR &amp; ECONOMIC GROWTH</b> <b>BUREAU OF COMMERCIAL SERVICES</b> <small>(FOR BUREAU USE ONLY)</small>	
Date Received	<div style="text-align: right; font-size: 1.5em; font-weight: bold;">FILED</div> <div style="text-align: center; margin-top: 10px;">JUL 01 2008</div>
JUL 01 2008	This document is effective on the date filed, unless a subsequent effective date within 90 days after received date is stated in the document.
Name Peter H. Webster	Administrator BUREAU OF COMMERCIAL SERVICES
Address 38525 Woodward Ave., Suite 2000	
City Bloomfield Hills	State MI
Zip Code 48304-2970	
EFFECTIVE DATE:	

Document will be returned to the name and address you enter above if left blank document will be mailed to the registered office.

## CERTIFICATE OF MERGER / CONSOLIDATION

For use by Domestic Nonprofit Corporations  
(Please read information and instructions on the last page)

Pursuant to the provisions of Act 162, Public Acts of 1982 (nonprofit corporations), the undersigned corporations execute the following Certificate:

1. The Plan of Merger (Consolidation) is as follows:

a. The name of each constituent corporation and its identification number is:

University Preparatory Academy

756539

The Public School Academies of Detroit

70137U

b. The name of the surviving (new) corporation and its identification number is:

The Public School Academies of Detroit

70137U

c. For each constituent stock corporation, state:

Name of corporation	Designation and number of outstanding shares of each class	Indicate classes of shares entitled to vote	Indicate each class, if any, entitled to vote as a class

If the number of shares is subject to change prior to the effective date of the merger or consolidation, the manner in which the change may occur is as follows:

500.00 04/13 11/607

PC

- 2 a) For each corporation organized on a membership basis, state (a) the name of the corporation, (b) a description of its members, and (c) the number, classification and voting rights of its members.

N/A

- b) For each corporation organized on a directorship basis, state (a) the name of the corporation, (b) a description of the organization of its board, and (c) the number, classification and voting rights of its directors.

See the attachment

- c) State the terms and conditions of the proposed merger or consolidation. Include the manner and basis of converting the shares of, or membership or other interests in, each constituent corporation into shares, bonds, or other securities of, or membership or other interest in, the surviving or consolidated corporation, or into cash or other consideration.

See the attached Agreement and Plan of Merger.

- d) If a consolidation, the Articles of Incorporation of the consolidated corporation are attached to this Certificate and are incorporated herein. If a merger, the amendments to the Articles, or a restatement of the Articles, of the surviving corporation to be effected by the merger are as follows:

- e) Other provisions with respect to the merger (consolidation) are as follows:

See the attached Agreement and Plan of Merger.

3. The corporation has complied with the applicable provisions of the law of the jurisdiction where it is organized.

4. (Complete only if an effective date is desired other than the date of filing. The date must be no more than 90 days after receipt of this document in this office.)

The merger (consolidation) shall be effective on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

5 The Plan of Merger or consolidation was approved by:

- ☐ the Board of Directors and shareholders or members of the following Michigan corporation(s) in accordance with Sections 701 and 703(1) and (2) of the Act:

- ☒ the Board of Directors of the following Michigan corporation(s) organized on a directorship basis in accordance with Section 703(3) of the Act:

~~University Preparatory Academy and The Public School Academies of Detroit~~

By

(Signature of President, Vice-President, Chairperson or Vice-Chairperson)

President

(Type or Print Name and Title)

The Public School Academies of Detroit

(Name of Corporation)

By

(Signature of President, Vice-President, Chairperson or Vice-Chairperson)

President

(Type or Print Name and Title)

University Preparatory Academy

(Name of Corporation)

**Attachment 2b)**

- 1. (a) The Detroit Public School Academies, (b) Board consists of 5-9 trustees as determined by the Board, (c) each trustee has 1 vote.**
  
- 2. (a) University Preparatory Academy, (b) Board consists of 5-9 trustees as determined by the Board, (c) each trustee has 1 vote.**

## AGREEMENT AND PLAN OF MERGER

This **AGREEMENT AND PLAN OF MERGER** (this "Agreement") is entered into this 25th day of April, 2008 by and between The Public School Academies of Detroit, a Michigan non-profit corporation (the "Academy") and University Preparatory Academy, a Michigan non-profit corporation ("UPA").

### RECITALS

A. The Academy and UPA are each Michigan nonprofit corporations organized on a directorship basis for purposes that include operating as a public school academy under the Revised School Code.

B. UPA operates three (3) public schools located at various locations in Detroit, Michigan (collectively referred to as the "UPA Schools").

C. The Board of Directors of UPA has decided to discontinue the operation of that organization as a separate entity and wishes to transfer its pupils, property, and assets to the Academy through a statutory merger and pursuant to Michigan law.

D. The respective boards of directors of the Academy and UPA deem it advisable and to the advantage, welfare and best interest of UPA and the Academy that UPA be merged with and into the Academy on the terms set forth in this Agreement.

NOW, THEREFORE, in consideration of the premises and the representations, warranties, covenants and agreements contained herein, the parties hereto, intending to be legally bound, agree as follows:

### I — THE MERGER

1.1 **The Merger.** Subject to the terms and conditions of this Agreement, at the Effective Time (as defined in Section 1.2), UPA shall be merged with and into the Academy and the separate existence of UPA shall thereupon cease (the "Merger"). The Academy shall be the surviving corporation in the Merger (sometimes referred to in this Agreement as the "Surviving Corporation") and shall continue to be governed by the laws of the State of Michigan. After the Merger, the Surviving Corporation shall possess all of the rights, privileges, immunities and powers and shall be subject to all of the restrictions and duties of each of UPA and the Academy. All property, real, personal and mixed, and all debts of either UPA and the Academy shall be the property of the Academy and title to any real estate shall not revert or be impaired by the Merger in any way. After the Merger, the Academy's name shall also remain unchanged until such time, if at all, that the Academy amends its articles of incorporation. The Merger shall have the effects specified in the Michigan Nonprofit Corporation Act (the "MNCA") and Public Act 1 of 2008. Except to the extent specifically provided in Section 3.1 of this Agreement, it is not the intention of UPA that the assets transferred to the Academy pursuant to the Merger be subject to any restrictions on their use beyond those applicable to such property immediately prior to the Effective Time.

1.2 **Effective Time.** The Academy and UPA will cause an appropriate Certificate of Merger (the "Certificate of Merger") to be executed and filed with the Michigan Department of Labor & Economic Growth on the date of the Closing (as defined in Section 1.3) or on such other

date and time as the Academy and UPA may agree. The Merger shall become effective at 11:59 p.m., on June 30, 2008, or on such other date and time as is agreed upon by the parties and specified in the Certificate of Merger. Such date and time is referred to in this Agreement as the "Effective Time." The separate existence of UPA shall cease at the Effective Time.

**1.3 Closing.** The closing of the Merger (the "Closing") shall take place at the offices of the Academy located at 435 Amsterdam Street, Detroit, Michigan 48202, at such other place, date or time as the Academy and UPA may agree.

**1.4 Articles of Incorporation and Bylaws of the Surviving Corporation.** From and after the Effective Time and until amended, the Articles of Incorporation and Bylaws of the Surviving Corporation shall be the same as they were immediately prior to the Effective Time

**1.5 Directors and Officers of the Surviving Corporation.**

**A. Directors.** The Surviving Corporation's board of directors consists of five (5) to nine (9) members. The president presides at all meetings of the board. Each director has one vote all matters submitted to the board. The directors of the Surviving Corporation shall be the same as they were immediately prior to the Effective Time and shall serve until their successors have been duly elected or appointed and qualified, or until their earlier death, resignation or removal in accordance with the Articles of Incorporation and Bylaws of the Surviving Corporation; provided, however, immediately following the Effective Time, the Surviving Corporation shall nominate three (3) directors of UPA who were directors of UPA immediately prior to the Effective Time for subsequent Academy board member positions in accordance with Section 1.b of that certain Certified Copy of Resolution Adopted by the Board of Trustees of Grand Valley State University dated as of April 28, 2006 attached hereto as **Exhibit A**

**B. Officers.** The officers of the Surviving Corporation shall be the same as they were immediately prior to the Effective Time and shall serve until their successors have been duly elected or appointed and qualified, or until their earlier death, resignation or removal in accordance with the Articles of Incorporation and Bylaws of the Surviving Corporation.

**1.6 Additional Terms and Conditions.**

**A. Use of UPA Funds.** The Surviving Corporation agrees that all grants and federal and state funding expressly earmarked for UPA but obtained by the Academy as a result of the Merger shall used be exclusively for the former UPA Schools.

**B. Use of UPA Assets.** The Surviving Corporation agrees that all financial and physical assets transferred from UPA ("UPA Assets") to the Academy as a result of the Merger shall be used by the Surviving Corporation, in all material respects, exclusively for the former UPA Schools; provided, however, that such use shall not jeopardize the Surviving Corporation's non-profit status or violate any provision of the Surviving Corporation's Articles of Incorporation or Bylaws or any agreements with the Grand Valley State University Board of Trustees ("Authorizing Body").



### 1.7 UPA Students.

A. **Transfer.** All students enrolled at the UPA Schools immediately prior to the Effective Time will be enrolled in the appropriate grade level with the Surviving Corporation and will have the option to remain at the UPA Schools location (the "Transferred Students").

B. **Student Re-Enrollment.** The Transferred Students will be categorized as students who were enrolled in the immediately preceding school year for purposes of re-enrollment pursuant to the Academy's Student Re-Enrollment policy attached hereto as Exhibit B.

## II — REPRESENTATIONS AND WARRANTIES OF THE PARTIES

2.1 **Representations and Warranties of the Academy.** The Academy represents and warrants to UPA as follows:

A. **Organization.** The Academy is a nonprofit corporation duly organized, validly existing and in good standing under the laws of the State of Michigan.

B. **Authorization of Transaction.** The Academy has full corporate power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement. This Agreement constitutes a valid and legally binding obligation of the Academy enforceable in accordance with its terms, except as such enforceability may be subject to the effects of any applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium or similar laws affecting creditors' rights generally and subject to principles of equity (including, without limitation, concepts of materiality, reasonableness, good faith and fair dealings), regardless of whether considered in a proceeding in equity or at law.

C. **Consistency with Laws, Orders, etc.** Neither the execution and the delivery of this Agreement, nor the consummation by the Academy of the Merger or other transactions contemplated by this Agreement, will (i) violate any statute, regulation, rule, injunction, judgment, order or decree of any governmental body or court to which the Academy is subject; (ii) violate any provision of the Articles of Incorporation or Bylaws of the Academy; or (iii) conflict with, result in a breach of or constitute a default under any agreement, contract, lease, license, instrument or other arrangement or restriction to which the Academy is a party or by which it is bound or to which any of its assets is subject. With the exception of prior approval of its Board of Directors and its Authorizing Body, the Academy is not required to give any notice to, make any filing with or obtain any authorization, consent, or approval of any government or governmental agency other than the Michigan Department of Attorney General in order for it to consummate the transactions contemplated by this Agreement.

2.2 **Representations and Warranties of UPA.** UPA represents and warrants to the Academy as follows:

A. **Organization.** UPA is a nonprofit corporation duly organized, validly existing and in good standing under the laws of the State of Michigan.

B. **Authorization of Transaction.** UPA has full corporate power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement. This Agreement constitutes a valid and legally binding obligation of UPA enforceable

in accordance with its terms, except as such enforceability may be subject to the effects of any applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium or similar laws affecting creditors' rights generally and subject to principles of equity (including, without limitation, concepts of materiality, reasonableness, good faith and fair dealings), regardless of whether considered in a proceeding in equity or at law.

**C Consistency with Laws, Orders, etc.** Neither the execution and the delivery of this Agreement, nor the consummation by UPA of the Merger or other transactions contemplated by this Agreement, will (i) violate any statute, regulation, rule, injunction, judgment, order or decree of any governmental body or court to which UPA is subject; (ii) violate any provision of the Restated Articles of Incorporation or Bylaws of UPA; or (iii) conflict with, result in a breach of or constitute a default under, any agreement, contract, lease, license, instrument or other arrangement or restriction to which UPA is a party or by which it is bound or to which any of its assets is subject. With the exception of prior approval of its Board of Directors and its Authorizing Body, UPA is not required to give any notice to, make any filing with or obtain any authorization, consent, or approval of any government or governmental agency other than the Michigan Department of Attorney General in order for it to consummate the transactions contemplated by this Agreement.

**D Compliance with Laws.** UPA is in substantial compliance with all applicable laws, rules, regulations, orders, judgments and decrees of all governmental authorities, federal, state, local or otherwise. UPA has not received any notice of violation nor otherwise been made aware of any claim by a federal, state, county or municipal authority pertaining to any material violation of a governmental regulation concerning its business.

### **III — COVENANTS OF THE PARTIES**

**3.1 Conduct of Business.** The Academy and UPA each covenant and agree that, during the period from the date of this Agreement to the Effective Time, it will conduct its operations according to its ordinary and usual course of business consistent with past practice and, to the extent consistent therewith, with no less diligence and effort than would be applied in the absence of this Agreement.

**3.2 Best Efforts.** Each of the parties will take all actions and will do all things reasonably necessary in order to consummate the Merger and to make effective the other transactions contemplated by this Agreement, including, but not limited to, providing the other party, and the other's respective authorized representatives, access to the employees, agents, properties, books and records of the party in order that the other party may have the opportunity to make such investigations as it shall reasonably request of the affairs of the other.

#### **3.3 Indemnification of the UPA Directors, Officers and Committee Members.**

**A. Indemnification.** The Academy agrees that all rights to indemnification, including provisions relating to advances of expenses incurred in defense of any action or suit, existing in favor of the present or former directors, officers and committee members of UPA as provided in the Restated Articles of Incorporation and Bylaws of UPA, in the MNCA or pursuant to other agreements as in effect as of the date of this Agreement, with respect to matters occurring through the Effective Time, shall survive the merger and shall continue in full force and effect until three (3) years after the Effective

Time; provided, however, that all rights to indemnification in respect of any claim asserted or made within such period shall continue until the disposition of such claim. The total indemnification under this Section 3.3A, including expenses, shall not exceed the sum of (i) the amounts payable on behalf of indemnitees by insurers; (ii) any indemnification provided to indemnitees from sources other than UPA; and (iii) the net fair market value of UPA property passing to the Academy under the Merger as of the Effective Time.

**B. Insurance.** The Academy shall cause to be maintained in effect for not less than three (3) years after the Effective Time the current policies of directors' and officers' liability insurance and fiduciary liability insurance maintained by or on behalf of UPA with respect to matters occurring prior to the Effective Time; provided, however, that the Academy may substitute for any such policies of substantially the same coverage containing terms and conditions which are no less favorable than any such insurance in effect immediately prior to the Effective Time.

#### **IV — CONDITIONS**

**4.1 Conditions to the Obligations of the Academy.** The obligations of the Academy to consummate the Merger are subject to the fulfillment at, or prior to, the Effective Time of the following conditions, any or all of which may be waived in whole or in part by the Academy to the extent permitted by applicable law:

**A. Representations, Warranties and Covenants of UPA.** All of the representations and warranties of UPA set forth in this Agreement shall be true and correct in all material respects on and as of the Effective Time and UPA shall have performed in all material respects all of its covenants under this Agreement through the Effective Time.

**B. Approvals and Consents.** The Merger and the other transactions under this Agreement shall have received all approvals of the Michigan Department of Attorney General, Charitable Trust Division necessary to file a Certificate of Merger.

**C. No Injunctions.** There shall not be in effect any preliminary or permanent injunction or other order of a court or other governmental or regulatory body directing that the Merger or other transactions contemplated under this Agreement not be consummated.

**D. Landlord Consent.** UPA shall have delivered the written consent of its landlord ("Landlord") approving the Merger in connection with the Lease between UPA, as tenant, and the Landlord, dated as of April 28, 2004.

**E. Authorizing Body Consent.** The Authorizing Body shall have delivered written consent approving the Merger and Plan of Merger.

**4.2 Conditions to the Obligations of UPA.** The obligations of UPA to consummate the Merger are subject to the fulfillment at or prior to the Effective Time of the following conditions, any or all of which may be waived in whole or in part by UPA to the extent permitted by applicable law:

**A. Representations, Warranties and Covenants of the Academy.** All of the representations and warranties of the Academy set forth in this Agreement shall be true and

correct in all material respects on and as of the Effective Time and the Academy shall have performed in all material respects all of its covenants under this Agreement through the Effective Time.

**B. Approvals and Consents.** The Merger and the other transactions under this Agreement shall have received all approvals of the Michigan Department of Attorney General, Charitable Trust Division necessary to file a Certificate of Merger.

**C. No Injunctions.** There shall not be in effect any preliminary or permanent injunction or other order of a court or other governmental or regulatory body directing that the Merger or other transactions contemplated under this Agreement not be consummated.

**D. Authorizing Body Consent.** The Authorizing Body shall have delivered written consent approving the Merger and Plan of Merger.

## **V — MISCELLANEOUS**

**5.1 Notices.** All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been given when delivered personally, mailed by registered or certified mail (return receipt requested), delivered by Federal Express or other nationally recognized overnight courier service or sent via facsimile to the parties at the following addresses (or at such other address for a party as shall be specified by like notice):

To the Academy:      The Public School Academies of Detroit  
435 Amsterdam Street  
Detroit, Michigan 48202  
Telephone: ( ) \_\_\_\_ - \_\_\_\_  
Facsimile: ( ) \_\_\_\_ - \_\_\_\_  
Attention: \_\_\_\_\_

With a copy to      Dickinson Wright PLLC  
38525 Woodward Ave., Ste. 2000  
Bloomfield Hills, Michigan 48304-2970  
Telephone: (248) 433-7513  
Facsimile: (248) 433-7274  
Attention: Peter H. Webster, Esq.

To UPA:              University Preparatory Academy  
600 Antoinette Street  
Detroit, Michigan 48202  
Telephone: ( ) \_\_\_\_ - \_\_\_\_  
Facsimile: ( ) \_\_\_\_ - \_\_\_\_  
Attention: \_\_\_\_\_

With a copy to      Jaffe Raitt Heuer & Weiss, PC  
27777 Franklin Road, Ste. 2500  
Southfield, Michigan 48034-8214  
Telephone: (248) 351-3000  
Facsimile: (248) 351-3082

Attention: Erika Butler-Akinyemi, Esq.

**5.2 Assignment.** Neither party may assign its duties, rights and obligations under this Agreement without the prior written consent of the other party.

**5.3 Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the Academy and UPA and their respective successors and assigns.

**5.4 Entire Agreement.** This Agreement, as it may be amended or supplemented from time to time, constitutes the complete agreement between the Academy and UPA and supersedes all prior agreements, oral and written. This Agreement may be modified only by a written instrument executed by the Academy and UPA.

**5.5 Choice of Law.** This Agreement will be governed by, construed and enforced in accordance with the laws of the state of Michigan.

**5.6 Waivers.** No part of this Agreement may be waived except by the written agreement of the Academy or UPA. Forbearance in any form from demanding performance hereunder is not a waiver of performance. Until complete performance under this Agreement, the party owed performance may invoke any remedy under this Agreement or under law, despite its past forbearance.

**5.7 Limited Enforcement.** This Agreement is enforceable only by the Academy and UPA and their respective successors and assigns. No other person has the right to enforce any of the provisions contained in this Agreement; provided, however, that the provisions of Section 3.3 shall inure to the benefit of, and shall be enforceable by, UPA directors, officers and committee members described in Section 3.3.

**5.8 Captions.** The section and paragraph headings in this Agreement are inserted for convenience only and do not describe, interpret or limit the scope, extent or intent of this Agreement of any provision of this Agreement.

**5.9 Counterparts.** This Agreement may be executed in a number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

[Signatures continue on the following page.]

IN WITNESS WHEREOF, each of the parties hereto have caused this Agreement, pursuant to authority given by their respective Boards of Directors, to be executed on its behalf by an authorized officer of each party hereto.

UNIVERSITY PREPARATORY  
ACADEMY

By: *Nancy Lurie*  
Name: \_\_\_\_\_  
Its: President

THE PUBLIC SCHOOL ACADEMIES  
OF DETROIT

By: *[Signature]*  
Name: \_\_\_\_\_  
Its: President

**EXHIBIT A**

**RESOLUTION ADOPTED BY THE BOARD OF TRUSTEES  
OF GRAND VALLEY STATE UNIVERSITY DATED AS OF APRIL 28, 2006**

See attached.



**CERTIFIED COPY OF RESOLUTION ADOPTED BY THE BOARD OF TRUSTEES OF  
GRAND VALLEY STATE UNIVERSITY ON APRIL 28, 2006:**

06-3-14      (14)    **Charter Schools Report**

On motion by Ms. Brooks and second by Mrs. Wolters, the following resolution was adopted unanimously:

**WHEREAS, the Michigan Legislature has provided for the establishment of urban high school academies as part of the Michigan public school system by enacting Act No. 179 of the Public Acts of 2003; and**

**WHEREAS, according to this legislation, the Board of Trustees of Grand Valley State University ("University Board"), as the governing body of a state public university, is an authorizing body empowered to issue contracts to organize and operate urban high school academies; and**

**WHEREAS, the Michigan Legislature has mandated that urban high school academy contracts be issued on a competitive basis taking into consideration the resources available for the proposed urban high school academy, the population to be served by the proposed public school academy, and the educational goals to be achieved by the proposed urban high school academy; and**

**WHEREAS, the University Board, having received applications for organizing urban high school academies, and having examined the ability of the proposed performance standards, proposed academic program, financial viability of the applicant, and the ability of the proposed urban high school academy board of directors to meet the contract goals and objectives;**

**NOW, THEREFORE, BE IT RESOLVED:**

**AUTHORIZING RESOLUTION FOR PUBLIC SCHOOL ACADEMIES  
OF DETROIT ("ACADEMY")**

1.    **That the application for Public School Academies of Detroit ("Academy"), submitted under Section 522 of the Revised School Code, MCL 380.522, meets the University Boards requirements and the requirements of applicable law and is therefore approved;**

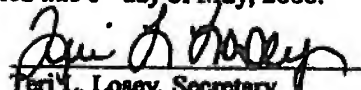


2. Pursuant to the Method of Selection Resolution adopted by the University Board, the following seven (7) persons are appointed as the initial board of directors for the Academy:

Ms. Jean Baker	2 year term
Dr. Deborah Ball	2 year term
Mr. David Bing	3 year term
Mr. James Nicholson	3 year term
Mr. Edward Parks	3 year term
Mr. Dan Varner	1 year term
Ms. Joann Williams	1 year term

3. The University Board approves and authorizes the issuance of a contract to charter an urban high school academy to the Academy and authorizes the Chairperson of the University Board to execute a contract to charter an urban high school academy and related documents issued by the University Board to the Academy, provided that, before execution of the contract, the University President or his designee affirms that all terms of the contract have been agreed upon and the Academy is able to comply with all terms and conditions of the contract.

IN WITNESS WHEREOF, I have hereunto signed my name as Secretary and have caused the seal of said body corporate to be hereto affixed this 8<sup>th</sup> day of May, 2006.

  
Teri L. Losey, Secretary  
Board of Trustees  
Grand Valley State University



CERTIFIED COPY OF RESOLUTION ADOPTED BY THE BOARD OF TRUSTEES OF  
GRAND VALLEY STATE UNIVERSITY ON APRIL 28, 2006:

06-3-14 (14) Charter Schools Report

**Method of Selection Resolution**

On motion by Ms. Myers and second by Mrs. Johnson, the following  
resolution was adopted unanimously:

**URBAN HIGH SCHOOL ACADEMY BOARD OF DIRECTORS:  
METHOD OF SELECTION AND APPOINTMENT**

WHEREAS, the Board of Trustees of Grand Valley State University  
("University Board") is interested in issuing contracts to urban high school  
academies, under PA 179 of 2003; and

WHEREAS, MCL 380.528(1)(c) of the Revised School Code ("Code")  
provides that an authorizing body shall "adopt a resolution establishing the  
method of selection, length of term, and number of members of the board  
of directors of each urban high school academy that it authorizes," and

WHEREAS, the University Board has determined that each contract  
issued by the University Board shall contain the following method of  
selection and appointment process until otherwise amended by the  
University Board;

NOW, THEREFORE, BE IT RESOLVED:

The following method of selection and appointment process for Urban  
High School Academy Board members applies to all urban high school  
academies authorized by the University Board:

1. **Method of Selection and Appointment of Urban High School  
Board Members:**

- a. **Initial Urban High School Academy Board Member  
Nominations and Appointments:** As part of the  
urban high school academy application, the  
applicant shall propose to the University Charter  
Schools Office Director ("CSO Director"), the  
names of proposed individuals to serve on the initial  
board of directors of the proposed urban high school

academy ("Academy Board"). When the CSO Director recommends an initial contract for approval to the University Board, he/she shall include recommendations for initial Academy Board members. These recommendations may, but are not required to, include individuals proposed by the urban high school academy applicant ("Applicant"). To be considered for appointment, the nominees must have completed the required board member candidate application materials, including at least (i) the Urban High School Academy Board Member Questionnaire prescribed by the University Charter Schools Office; and (ii) the Criminal Background and History Check Report prescribed by the University Charter Schools Office.

- b. Subsequent Urban High School Academy Board Member Nominations and Appointments: Except as provided in paragraph (2) below, the Academy Board may nominate individuals for subsequent Academy Board member positions. As part of the appointment process, the Academy Board may submit to the CSO Director: (i) the name of the nominee; (ii) the board member candidate application materials identified in paragraph (a) above; and (iii) a copy of the Academy Board nominating resolution. The CSO Director may or may not recommend the proposed nominee submitted by the Academy Board. If the CSO Director does not recommend a nominee submitted by the Academy Board, the CSO Director shall select a nominee and forward that recommendation to the University Board for appointment. The University Board shall have the sole and exclusive right to appoint members to the Academy Board.
- c. Exigent Appointments: When the CSO Director determines an "exigent condition" exists which requires him/her to make an appointment to an Academy Board, the CSO Director, with University President approval, may immediately appoint a person to serve as an Academy Board member for the time specified, but not longer than the next meeting held by the University Board when a regular appointment may be made by the University Board. The CSO Director shall make the appointment in writing and notify the Academy Board of the appointment. Exigent conditions include, but are not limited to when an Academy Board seat is vacant, when a Academy Board cannot reach a quorum, when the University Board

determines that an Academy Board member's service is no longer required, when an Academy Board member is removed, when an Academy Board fails to fill a vacancy, or other reasons which would prohibit the Academy Board from taking action without such an appointment.

2. Qualifications of Academy Board Members: To be qualified to serve on the Academy Board, a person shall: (a) be a citizen of the United States; (b) reside in the State of Michigan; (c) submit all materials requested by the University Charter Schools Office including, but not limited to, a Urban High School Academy Board Member Questionnaire and a release for criminal records and history background check; (d) not be an employee of the Academy; (e) not be a director, officer, or employee of a company or other entity that contracts with the Academy; and (f) not be an employee or representative of the University or be a member of the University Board.
3. Oath /Acceptance of Office/Voting Rights: Following appointment by the University Board, Academy Board appointees may begin their legal duties, including the right to vote, after they have signed an Acceptance of Public Office form and taken the Oath or Affirmation of Public Office administered by a member of the Academy Board, other public official or notary public.
4. Length of Term; Removal: An appointed Academy Board member is an "at will" board member who shall serve at the pleasure of the University Board for a term of office not to exceed three (3) years. Regardless of the length of term, terms shall end on June 30 of the final year of service, unless shorter due to other provisions of this resolution. A person appointed to serve as an Academy Board member may be reappointed to serve additional terms. When an Academy Board member is appointed to complete the term of service of another Academy Board member, their service ends at the end of the previous Academy Board member's term.

If the University Board determines that an Academy Board member's service in office is no longer required, then the University Board may remove an Academy Board member with or without cause and shall specify the date when the Academy Board member's service ends. An Academy Board member may also be removed from office by a two-thirds (2/3) vote of the Academy Board for cause.

5. Resignations: A member of the Academy Board may resign from office by submitting a written resignation or by notifying the CSO Director. The resignation is effective upon receipt by the CSO Director unless a later date is specified in the resignation. A written notice of resignation is not required. If no such written notification is provided, then the CSO Director shall confirm a

resignation in writing. The resignation shall be effective upon the date the CSO Director sends confirmation to the resigning Academy Board member.

6. **Vacancy:** An Academy Board position shall be considered vacant when an Academy Board member:

- a. Resigns
- b. Dies
- c. Is removed from office
- d. Is convicted of a felony
- e. Ceases to be qualified
- f. Is incapacitated

7. **Filling a Vacancy:** The Academy Board may nominate and the CSO Director shall recommend or temporarily appoint persons to fill a vacancy as outlined in the "Subsequent Appointments" and "Exigent Appointment" procedures in this resolution.

8. **Number of Academy Board Member Positions:** The number of Academy Board member positions shall be five (5), seven (7) or nine (9), as determined from time to time by the Academy Board.


9. **Quorum:** In order to legally transact business the Academy Board shall have a quorum physically present at a duly called meeting of the Academy Board. A "quorum" shall be defined as follows:

# of Academy Board positions	# required for Quorum
Five (5)	Three (3)
Seven (7)	Four (4)
Nine (9)	Five (5)

10. **Manner of Acting:** The Academy Board shall be considered to have "acted," when a duly called meeting of the Academy Board has a quorum present and the number of board members voting in favor of an action is as follows:

# of Academy Board positions	# for Quorum	# required to act
Five (5)	Three (3)	Three (3)
Seven (7)	Four (4)	Four (4)
Nine (9)	Five (5)	Five (5)

IN WITNESS WHEREOF, I have hereunto signed my name as Secretary and have caused the seal of said body corporate to be hereto affixed this 8<sup>th</sup> day of May, 2006.

  
Teri L. Losey, Secretary  
Board of Trustees  
Grand Valley State University

## **EXHIBIT B**

### **STUDENT RE-ENROLLMENT**

#### **Student Re-Enrollment**

- Any student who was enrolled in the immediately preceding school year in the Academy will be enrolled in the appropriate grade level. The re-enrollment process for the application period will include:
- Parents or guardians of all enrolled students will be notified of the deadline for notifying the urban high school academy that they wish to re-enroll their child.
- If there is a sibling preference policy, the re-enrollment notice must also request that the parent or guardian indicate whether a sibling(s) seeks to enroll for the upcoming academic year.
- An enrolled student who does not re-enroll by the specified date can only apply during the application period for new students.
- An applicant on the waiting list at the time a new application period begins must reapply as a new student.
- After collecting the parent or guardian responses, the following will be determined:
  1. The number of students who have re-enrolled per grade level.
  2. The number of siblings seeking admission for the upcoming academic year per grade (if a Board policy exists).
  3. If space is unavailable, a waiting list for siblings of re-enrolled students will be developed.
  4. The number of spaces remaining, per grade, after enrollment of current students and siblings.

### **SCHEDULE 3**

#### **BYLAWS**

The bylaws and flow-chart of the Academy's governance structure are attached.

**BYLAWS**  
**OF**  
**THE PUBLIC SCHOOL ACADEMIES OF DETROIT**

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**ARTICLE I**

**NAME**

This organization shall be called **THE PUBLIC SCHOOL ACADEMIES OF DETROIT** (the "Academy" or the "corporation").

**ARTICLE II**

**FORM OF ACADEMY**

*The Academy is organized as a non-profit, non-stock, directorship corporation.*

**ARTICLE III**

**OFFICES**

Section 3.1. **Principal Office.** The principal office of the Academy shall be located in the State of Michigan.

Section 3.2. **Registered Office.** The registered office of the Academy may be the same as the principal office of the Academy, but in any event must be located in the State of Michigan, and be the business office of the resident agent, as required by the Michigan Nonprofit Corporation Act. Changes in the resident agent and registered address of the Academy must be reported to the Michigan Department of Labor and Economic Growth, Bureau of Commercial Services.

**ARTICLE IV**

**BOARD OF DIRECTORS**

Section 4.1. **General Powers.** The business, property and affairs of the Academy shall be managed by the Academy Board of Directors ("Academy Board"). The Academy Board may exercise any and all of the powers granted to it under the Michigan Non-Profit Corporation Act or pursuant to Part 6C of the Revised School Code ("Code"). The Academy Board may delegate such powers to the officers and committees of the Academy Board as it deems necessary, so long as such delegation is consistent with the Articles, these Bylaws, the Contract, and Applicable Law.



Section 4.2. University Board Resolution Establishing Method of Selection, Length of Term and Number of Academy Board Members. The method of selection and appointment of Academy Board members, the qualifications of Academy Board members, oath and acceptance of public office requirements, Academy Board member voting rights, length of Academy Board member terms, removal of Academy Board member procedures, method for handling resignations, declaration of vacancies and filling of vacant Academy Board member positions, number of Academy Board member positions, quorum and manner of acting requirements for Academy Board shall be established by resolution adopted by the Grand Valley State University Board of Trustees (the "University Board"). This resolution may be amended from time to time by the University Board without the approval of the Academy Board. Any provision in these Bylaws that conflicts or is inconsistent with this University Board resolution shall be void. Upon notice from the University, the Academy Board shall amend any conflicting or inconsistent provision set forth in these Bylaws and provide a copy of the change(s) to the University Charter Schools Office for inclusion in the Contract.

## **ARTICLE V**

### **MEETINGS**

Section 5.1. Annual and Regular Meetings. The Academy Board shall hold an annual meeting each year. The Academy Board must provide, by resolution, the time and place, within the State of Michigan, for the holding of regular meetings. Unless otherwise agreed to by the University President, the Academy Board must hold at least six (6) regular meetings during the first year of operation. The Academy Board shall provide notice of the annual and all regular meetings as required by the Open Meetings Act.

Section 5.2. Special Meetings. Special meetings of the Academy Board may be called by or at the request of the Academy Board President or any two other Directors. The person or persons authorized to call special meetings of the Academy Board may fix the place within the State of Michigan for holding any special meeting of the Academy Board called by them, and, if no other place is fixed, the place of meeting shall be the principal business office of the corporation in the State of Michigan. The corporation shall provide notice of all special meetings as required by the Open Meetings Act.

Section 5.3. Notice; Waiver. The Academy Board must comply with the notice provisions of the Open Meeting Act. In addition, notice of any meeting shall be given to each Director stating the time and place of the meeting, delivered personally, mailed, sent by facsimile or electronic mail to each Director at the Director's business address or electronic mailing address. Any Director may waive notice of any meeting by written statement or facsimile sent by the Director and signed before or after the holding of the meeting. The attendance of a Director at a meeting constitutes a waiver of notice to the transaction of any business because the meeting is not lawfully called or convened.

Section 5.4. Quorum. The quorum requirements for the transaction of business at any Academy Board meeting shall be determined by resolution of the University Board.

Section 5.5. Manner of Acting. The manner of acting requirements for Academy Board meetings shall be determined by resolution of the University Board. No member of the Board of Directors may vote by proxy.

Section 5.6. Open Meetings Act. All meetings of the Academy Board, shall at all times be in compliance with the Open Meetings Act.

Section 5.7. Presumption of Assent. A Director of the Academy Board who is present at a meeting of the Academy Board at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless the Director's dissent shall be entered in the minutes of the meetings. Unless a Director abstains from voting on a particular Academy Board agenda item and the abstention is recorded in the Academy Board meeting minutes, the Academy Board meeting minutes shall reflect the vote, whether in favor or in opposition, of each Director present at the meeting.

## ARTICLE VI

### COMMITTEES

Section 6.1. Committees. The Academy Board, by resolution, may designate one or more committees, each committee to consist of one or more Directors selected by the Academy Board. As provided in the resolution as initially adopted, and as thereafter supplemented or amended by further resolution, the committees shall have such powers as delegated by the Academy Board, except (i) filling of vacancies in the officers of the Academy Board or committees created pursuant to this Section; (ii) amending the Articles of Incorporation or Bylaws; or (iii) any action the Academy Board cannot lawfully delegate under the Articles, the Contract, these Bylaws or Applicable Law. All committee meetings shall at all times be in compliance with the Open Meetings Act. Each committee shall fix its own rules governing the conduct of its activities and shall make such reports to the Academy Board of its activities as the Academy Board may request.

## ARTICLE VII

### OFFICERS OF THE BOARD

Section 7.1. Number. The officers of the Academy shall be a President, Vice-President, Secretary, Treasurer, and such assistant Treasurers and assistant Secretaries as may be selected by the Academy Board.

Section 7.2. Election and Term of Office. The Academy Board shall elect the initial officers at its first duly noticed meeting. Thereafter, the officers of the Academy shall be elected annually by the Academy Board. If the election of officers is not held at the annual meeting, the election shall be held as soon thereafter as may be convenient. Each officer shall hold office while qualified or until the officer resigns or is removed in the manner provided in Section 7.3.

Section 7.3. Removal. Any officer or agent elected or appointed by the Academy Board may be removed by the Academy Board whenever in its judgment the best interest of the corporation would be served thereby.

Section 7.4. Vacancies. A vacancy in any office shall be filled by appointment by the Academy Board for the unexpired portion of the term of the vacating officer.

Section 7.5. President. The President of the Academy shall be a member of the Academy Board. The President of the corporation shall preside at all meetings of the Academy Board. If there is not a President of the corporation, or if the President is absent, then the Vice-President shall preside. If the Vice-President is absent, then a temporary chair, chosen by the members of the Academy Board attending the meeting shall preside. The President may be an ex officio member of any standing committees and, when designated by the Academy Board, the Chairperson of any standing committee established by the Academy Board. The President shall, in general, perform all duties incident to the office of President of the Board as may be prescribed by the Academy Board from time to time.

Section 7.6. Vice-President. The Vice-President of the Academy shall be a member of the Academy Board. In the absence of the President or in the event of the President's death, inability, or refusal to act, the Vice-President shall perform the duties of President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. The Vice-President shall perform such other duties as from time to time may be assigned to the Vice-President by the President or by the Academy Board.

Section 7.7. Secretary. The Secretary of the Academy shall be a member of the Academy Board. The Secretary shall: (a) keep the minutes of the Academy Board meetings in one or more books provided for that purpose; (b) see that all notices, including those notices required under the Open Meetings Act, are duly given in accordance with the provisions of these Bylaws or as required by law; (c) be custodian of the corporate records and of the seal of the corporation and see that the seal of the corporation is affixed to all authorized documents; (d) keep a register of the post office address of each Director; and (e) perform all duties incident to the office of Secretary and other duties assigned by the President or the Academy Board.

Section 7.8. Treasurer. The Treasurer of the Academy shall be a member of the Academy Board. The Treasurer shall: (a) have charge and custody of and be responsible for all funds and securities of the corporation; (b) keep accurate books and records of corporate receipts and disbursements; (c) deposit all moneys and securities received by the corporation in such banks, trust companies or other depositories as shall be selected by the Board; (d) complete all required corporate filings; (e) assure that the responsibilities of the fiscal agent of the corporation are properly carried out; and (f) in general perform all of the duties incident to the office of Treasurer and such other duties as from time to time may be assigned by the President or by the Academy Board.

Section 7.9. Assistants and Acting Officers. The Assistants to the officers, if any, selected by the Academy Board, shall perform such duties and have such authority as shall from time to time be delegated or assigned to them by the Secretary or Treasurer or by the Academy

Board. The Academy Board shall have the power to appoint any person to perform the duties of an officer whenever for any reason it is impractical for such officer to act personally. Such acting officer so appointed shall have the powers of and be subject to all the restrictions upon the officer to whose office the acting officer is so appointed except as the Academy Board may by resolution otherwise determine.

Section 7.10. Salaries. Officers of the Board, as Directors of the corporation, may not be compensated for their services. By resolution of the Academy Board, Directors and officers may be reimbursed for reasonable expenses incident to their duties.

Section 7.11. Filling More Than One Office. Subject to the statute concerning the Incompatible Public Offices, Act No. 566 of the Public Acts of 1978, being Sections 15.181 to 15.185 of the Michigan Compiled Laws, any two offices of the corporation except those of President and Vice-President may be held by the same person, but no officer shall execute, acknowledge or verify any instrument in more than one capacity.

## ARTICLE VIII

### CONTRACTS, LOANS, CHECKS AND DEPOSITS; SPECIAL CORPORATE ACTS

Section 8.1. Contracts. The Academy Board may authorize any officer(s), assistant(s) or acting officer(s), to enter into any contract, to execute and deliver any instrument, or to acknowledge any instrument required by law to be acknowledged in the name of and on behalf of the corporation. Such authority may be general or confined to specific instances, but the appointment of any person other than an officer to acknowledge an instrument required by law to be acknowledged should be made by instrument in writing. When the Academy Board authorizes the execution of a contract or of any other instrument in the name of or on behalf of the corporation, without specifying the executing officers, the President or Vice-President, and the Secretary or Treasurer may execute the same and may affix the corporate seal thereto. No contract entered into, by or on behalf of the Academy Board, shall in any way bind Grand Valley State University or impose any liability on Grand Valley State University, its trustees, officers, employees, or agents.

Section 8.2. Loans. No loans shall be contracted on behalf of the Academy and on evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Academy Board. Such authority may be general or confined to specific instances. No loan, advance, overdraft, or withdrawal by an officer or Director of the corporation, other than in the ordinary and usual course of the business of the Academy, shall be made or permitted. No loan entered into, by or on behalf of the Academy Board, shall in any way be considered a debt or obligation of Grand Valley State University or impose any liability on Grand Valley State University, its trustees, officers, employees, or agents.

Section 8.3. Checks, Drafts, etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Academy, shall be

signed by such officer or officers, agent or agents, of the corporation and in such manner as shall from time to time be determined by resolution of the Academy Board.

**Section 8.4. Deposits.** Consistent with Section 1221 of the Code, the Treasurer of the Academy shall deposit the funds of the Academy in a financial institute or in a joint investment authorized by the Code. All additional funds of the Academy shall be deposited from time to time to the credit of the corporation in such banks, trust companies or other depositories as the Academy Board may select, provided that such financial institution is eligible to be a depository of surplus funds under Section 6 of Act No. 105 of the Public Acts of 1855, as amended, being Sections 21.146 of the Michigan Compiled Laws.

**Section 8.5. Voting of Gifted, Bequested or Transferred Securities Owned by this Corporation.** Subject always to the specific directions of the Academy Board, any shares or other securities issued by any other corporation and owned or controlled by this corporation may be voted at any meeting of security holders of such other corporation by the President of this corporation or by proxy appointed by the President, or in the absence of the President and the President's proxy, by the Secretary or Treasurer of this corporation by proxy appointed by the Secretary or Treasurer. Such proxy or consent in respect to any shares or other securities issued by any other corporation and owned by this corporation shall be executed in the name of this corporation by the President, the Secretary or the Treasurer of this corporation without necessity of any authorization by the Academy Board, affixation of corporate seal or countersignature or attestation by another officer. Any person or persons designated in the manner above stated as the proxy or proxies of this corporation shall have full right, power, and authority to vote the shares or other securities issued by such other corporation and owned by this corporation the same as such shares or other securities might be voted by this corporation. This section shall in no way be interpreted to permit the corporation to invest any of its surplus funds in any shares or other securities issued by any other corporation. This section is intended to apply, however, to all gifts, bequests or other transfers of shares or other securities issued by any other corporation which are received by the corporation.

**Section 8.6. Contracts Between Corporation and Related Persons; Persons Ineligible to Serve as Directors.** Pursuant to Sections 522(3)(e) and (f) of the Code, MCL 380.522(3)(e) and (f), each Director, officer or employee of the Academy shall comply with the Incompatible Public Offices statute, Act No. 566 of the Public Acts of 1978, being MCL 15.181 to 15.185 of the Michigan Compiled Laws, and the Contracts of Public Servants With Public Entities statute, Act No. 371 of the Public Acts of 1968, being MCL 15.321 to 15.330 of the Michigan Compiled Laws. The Academy Board shall ensure compliance with Applicable Law relating to conflicts of interest. The following shall be deemed a prohibited conflict of interest:

(a) An individual simultaneously serving as Director and an owner, officer, director, employee or paid consultant of an Educational Management Company that has an agreement with the Academy;

(b) An individual simultaneously serving as Director and an employee of the corporation;

(c) An individual simultaneously serving as Director and an owner, officer, director, employee or paid consultant of the Contract Administrator;

(d) An individual simultaneously serving as a Director and a independent contractor to the Academy;

(e) An individual simultaneously serving as a Director and as a member of the governing board of another public school; and

(f) An individual simultaneously serving as a Director and a University employee or paid consultant.

No person shall be eligible to serve as Director if the person's spouse, child, parent, or sibling has: (i) an ownership interest in the Educational Management Company, the Contract Administrator or the Applicant; or (ii) if the person's spouse, child, parent, or sibling is in a managerial, administrative or officer position with the Educational Management Company, Contract Administrator or the Applicant.

## **ARTICLE IX**

### **INDEMNIFICATION**

Each person who is or was a Director, officer or member of a committee of the Academy and each person who serves or has served at the request of the Academy as a trustee, director, officer, partner, employee or agent of any other corporation, partnership, joint venture, trust or other enterprise, shall be indemnified by the Academy to the fullest extent permitted by the corporation laws of the State of Michigan as they may be in effect from time to time. The corporation may purchase and maintain insurance on behalf of any such person against any liability asserted against and incurred by such person in any such capacity or arising out of his status as such, whether or not the corporation would have power to indemnify such person against such liability under the preceding sentence. The corporation may, to the extent authorized from time to time by the Board, grant rights to indemnification to any employee or agent of the corporation to the fullest extent provided under the laws of the State of Michigan as they may be in effect from time to time.

## **ARTICLE X**

### **FISCAL YEAR**

The fiscal year of the corporation shall begin on the first day of July in each year.

## **ARTICLE XI**

### **AMENDMENTS**

The Academy Board shall submit proposed Bylaw changes to the University Charter Schools Office, for review and comment, at least thirty (30) days prior to Academy Board adoption. The Academy's Bylaws, and any subsequent or proposed changes to the Academy's Bylaws, shall not violate or conflict with the Contract. If at any time the University identifies a provision in the Academy Board's Bylaws that violates or conflicts with Applicable Law or this

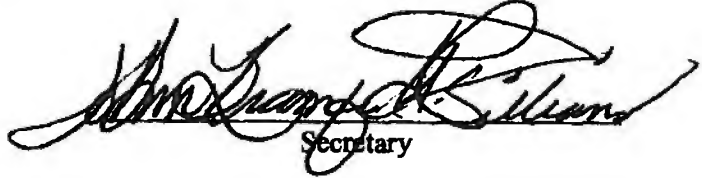
Contract, the Academy Board's Bylaw shall be automatically void and the Academy Board shall amend the identified provision to be consistent with Applicable Law and the Contract. The amendment shall be automatically incorporated into Schedule 3 of the Contract upon receipt by the University Charter Schools Office of a duly authorized Academy Board bylaw change.

#### **ARTICLE XII**

The definitions set forth in the Terms and Conditions incorporated as part of the Contract shall have the same meaning in these Bylaws.

#### **CERTIFICATION**

The Board certifies that these Bylaws were adopted as and for the Bylaws of a Michigan corporation in an open and public meeting, by the Academy Board on the 6th day of February, 2007.



Secretary

DETROIT 28947-2 976175v2

Public School Academies of Detroit

Detroit, Michigan

Resolution of the Public School Academies of Detroit Board of Directors

Upon motion of: Deborah Ball  
Seconded by: Jean Baker

WHEREAS, the Academy Board wishes to ratify its By-Laws that were adopted prior to the filing of the Articles of Incorporation.

NOW, THEREFORE, BE IT RESOLVED, that the Academy Board hereby approves, ratifies and confirms its By-Laws.

Secretary's Certification:

I certify that the Public School Academies of Detroit Board duly adopted the foregoing resolution at a properly noticed open meeting held on the 9<sup>th</sup> day of January, 2008, at which a quorum was present.

By:   
The Board Secretary



**State of Michigan Part 6C  
of Charter School Law  
Entity / Contract  
Structure  
Rev. 4/3/2008**

Authorizer (Grand Valley  
State University)

Part 6C  
Charter Contract

Public School Academies of  
Detroit (PSAD) Board

UPA K-12

UP Science and  
Math (UPSM) 6 - 12

Henry Ford Academy:  
School for Creative  
Studies

Educational Mgt.  
Contract  
UPA

New Urban Learning (NUL)  
(Educ. Mgt. Co.)

UPA High School

UPA Middle School

UPA Elementary  
School ONE

UPA Elementary  
School TWO

Landlord  
(TEF Entity)

Contract  
Administrator  
(TEF)

Educational Mgt.  
Contract  
UPSM

New Urban  
Learning  
(NUL)  
(Educ. Mgt.  
Co.)

UPSM High  
School

UPSM Middle  
School

Landlord  
(TEF Entity)

Educational Mgt.  
Contract  
HFA:SCS

Creative Urban  
Education  
(CUE )  
(Educ. Mgt.  
Co.)

HFA:SCS  
6 - 12 School

Landlord  
(TEF Entity)

**SCHEDULE 4**

**FISCAL AGENT AGREEMENT**

The Fiscal Agent Agreement is attached.

## **FISCAL AGENT AGREEMENT**

This Agreement is part of the Contract issued by the Grand Valley State University Board of Trustees ("University Board"), an authorizing body as defined by the Revised School Code, as amended (the "Code"), to the Public School Academies of Detroit, an urban high school academy ("Academy").

### **Preliminary Recitals**

WHEREAS, pursuant to the Code and the Contract, the University Board, as authorizing body, is the fiscal agent for the Academy, and

WHEREAS, the University Board is required by law to forward any State School Aid Payments received from the State of Michigan ("State") on behalf of the Academy to the Academy,

NOW, THEREFORE, in consideration of the premises set forth below, the parties agree to the following:

## **ARTICLE I**

### **DEFINITIONS AND INTERPRETATIONS**

Section 1.01. Definitions. Unless otherwise provided, or unless the context requires otherwise, the following terms shall have the following definitions:

"Account" means an account established by the Academy for the receipt of State School Aid Payments at a bank, savings and loan association, or credit union which has not been deemed ineligible to be a depository of surplus funds under Section 6 of Act No. 105 of the Public Acts of 1855, being Section 21.146 of the Michigan Compiled Laws.

"Agreement" means this Fiscal Agent Agreement.

"Fiscal Agent" means the University Board or an officer or employee of Grand Valley State University as designated by the University Board.

"Other Funds" means any other public or private funds which the Academy receives and for which the University Board voluntarily agrees to receive and transfer to the Academy.

"State School Aid Payment" means any payment of money the Academy receives from the State School Aid Fund established pursuant to Article IX, Section 11 of the Michigan Constitution of 1963 or under the State School Aid Act of 1979, as amended.

"State" means the State of Michigan.

"State Treasurer" means the office responsible for issuing funds to urban high school academies for State School Aid Payments pursuant to the School Aid Act of 1979, as amended.

Section 1.02. Fiscal Agent Agreement Incorporated into Contract; Use of Contract Definitions. This Fiscal Agent Agreement shall be incorporated into and is part of the Contract issued by the University Board to the Academy. Terms defined in the Contract shall have the same meaning in this Agreement.

## ARTICLE II

### FISCAL AGENT DUTIES

Section 2.01. Receipt of State School Aid Payments and Other Funds. The University Board is the Fiscal Agent for the Academy for the limited purpose of receiving State School Aid Payments. By separate agreement, the University Board and the Academy may also agree that the University Board will receive Other Funds for transfer to the Academy. The Fiscal Agent will receive State School Aid Payments from the State, as provided in Section 3.02.

Section 2.02. Transfer to Academy. Except as provided in the Contract, the Fiscal Agent shall transfer all State School Aid Payments and all Other Funds received on behalf of the Academy to the Academy within ten (10) business days of receipt or as otherwise required by the provisions of the State School Aid Act of 1979 or applicable State Board rules. The State School Aid Payments and all Other Funds shall be transferred into the Account designated by a resolution of the Board of Directors of the Academy and by a method of transfer acceptable to the Fiscal Agent.

Section 2.03. Limitation of Duties. The Fiscal Agent has no responsibilities or duties to verify the Academy's pupil membership count, as defined in the State School Aid Act of 1979, as amended, or to authorize, to approve or to determine the accuracy of the State Aid School Payments received on behalf of the Academy from the State Treasurer. The duties of the Fiscal Agent are limited to the receipt and transfer to the Academy of State School Aid Payments and Other Funds received by the Academy. The Fiscal Agent shall have no duty to monitor or approve expenditures made by the Academy Board.

Section 2.04. Academy Board Requests for Direct Intercept of State School Aid Payments. If the Academy Board directs that a portion of its State School Aid Payments be forwarded by the Fiscal Agent to a third party account for the payment of Academy debts and liabilities, the Academy shall submit to the University Charter Schools Office: (i) a copy of the Academy Board's resolution authorizing the direct intercept of State School Aid Payments; and (ii) a copy of a State School Aid Payment Agreement and Direction document that is in a form and manner acceptable to the Fiscal Agent. No State Aid Payment Agreement and Direction document shall be effective until it is acknowledged by the University President.

### ARTICLE III

#### STATE DUTIES

Section 3.01 Eligibility for State School Aid Payments. The State, through its Department of Education, has sole responsibility for determining the eligibility of the Academy to receive State School Aid Payments. The State, through its Department of Education, has sole responsibility for determining the amount of State School Aid Payments, if any, the Academy shall be entitled to receive.

Section 3.02. Method of Payment. Each State School Aid Payment for the Academy will be made to the Fiscal Agent by the State Treasurer by issuing a warrant and delivering the warrant to the Fiscal Agent by electronic funds transfer into an account specified by the Fiscal Agent, or by such other means deemed acceptable to the Fiscal Agent. The State shall make State School Aid Payments at the times specified in the State School Aid Act of 1979, as amended.

### ARTICLE IV

#### ACADEMY DUTIES

Section 4.01. Compliance with State School Aid Act. In order to assure that funds are available for the education of pupils, an Academy shall comply with all applicable provisions of the State School Aid Act of 1979, as amended.

Section 4.02. Expenditure of Funds. The Academy may expend funds that it receives from the State School Aid Fund for any purpose permitted by the State School Aid Act of 1979 and may enter into contracts and agreements determined by the Academy as consistent with the purposes for which the funds were appropriated.

Section 4.03. Mid-Year Transfers. Funding for students transferring into or out of the Academy during the school year shall be in accordance with the State School Aid Act of 1979 or applicable State Board rules.

Section 4.04. Repayment of Overpayment. The Academy shall be directly responsible for reimbursing the State for any overpayments of State School Aid Payments. At its option, the State may reduce subsequent State School Aid Payments by the amount of the overpayment or may seek collection of the overpayment from the Academy.

Section 4.05. Deposit of Academy Funds. The Academy Board agrees to comply with Section 1221 of the Revised School Code, being MCL 380.1221, regarding the deposit of State School Aid Payments and Other Funds received by the Academy.

## ARTICLE V

### RECORDS AND REPORTS

Section 5.01. Records. The Fiscal Agent shall keep books of record and account of all transactions relating to the receipts, disbursements, allocations and application of the State School Aid Payments and Other Funds received, deposited or transferred for the benefit of the Academy, and these books shall be available for inspection at reasonable hours and under reasonable conditions by the Academy and the State.

Section 5.02. Reports. The Fiscal Agent shall prepare and send to the Academy within thirty (30) days of September 1, 2009, and annually thereafter, a written report dated as of August 31 summarizing all receipts, deposits and transfers made on behalf or for the benefit of the Academy during the period beginning on the latter of the date hereof or the date of the last such written report and ending on the date of the report, including without limitation, State School Aid Payments received on behalf of the Academy from the State Treasurer and any Other Funds which the University Board receives under this Agreement.

## ARTICLE VI

### CONCERNING THE FISCAL AGENT

Section 6.01. Representations. The Fiscal Agent represents that it has all necessary power and authority to enter into this Agreement and undertake the obligations and responsibilities imposed upon it in this Agreement and that it will carry out all of its obligations under this Agreement.

Section 6.02. Limitation of Liability. The liability of the Fiscal Agent to transfer funds to the Academy shall be limited to the amount of State School Aid Payments as are from time to time delivered by the State and the amount of Other Funds as delivered by the source of those funds.

The Fiscal Agent shall not be liable for any action taken or neglected to be taken by it in good faith in any exercise of reasonable care and believed by it to be within the discretion or power conferred upon it by this Agreement, nor shall the Fiscal Agent be responsible for the consequences of any error of judgment; and the Fiscal Agent shall not be answerable except for its own action, neglect or default, nor for any loss unless the same shall have been through its gross negligence or willful default.

The Fiscal Agent shall not be liable for any deficiency in the State School Aid Payments received from the State Treasurer to which the Academy was properly entitled. The Fiscal Agent shall not be liable for any State School Aid overpayments made by the State Treasurer to the Academy for which the State subsequently seeks reimbursement.

Acknowledgment of Receipt

The undersigned, on behalf of the State of Michigan, Department of Treasury, acknowledges receipt of the foregoing Fiscal Agent Agreement that is part of the Contract issued by the University Board to the Academy.

BY: Joseph L. Fielek  
Joseph L. Fielek, Director  
Bureau of Bond Finance  
Michigan Department of Treasury

Date: Jan. 3, 2008

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**SCHEDULE 5**

**MASTER CALENDAR OF REPORTING REQUIREMENTS**

The Master Calendar of Reporting Requirements is attached.



**Urban High School Academies  
Master Calendar of Reporting Requirements  
July 1, 2010 – June 30, 2011**

DUE DATE	REPORT DESCRIPTION	SUBMIT TO:
July 1	Board Adopted 2010-2011 School Calendar/School Day Schedule.	CSO
July 1	Board Adopted Annual Operating Budget for the General Fund and School Service Fund for 2010-2011.	CSO
July 1	Copy of Notice of Public Hearing for Annual Operating Budget for 2010-2011.	CSO
July 1	Copy of Parent Satisfaction Survey and Results from 2009-2010, if applicable.	CSO
July 26	DS-4168 Report of Days and Clock Hours of Pupil Instruction for the 2009-2010 academic year, if applicable (See MDE website, <a href="http://www.michigan.gov/mde">www.michigan.gov/mde</a> , for MDE due date and form).	CSO
August 2	Annual Organizational Meeting Minutes for 2010-2011.	CSO
August 2	Board Resolution appointing Chief Administrative Officer for 2010-2011.	CSO
August 2	Board Resolution appointing Freedom of Information Act Coordinator for 2010-2011.	CSO
August 2	Board Designated Legal Counsel for 2010-2011.	CSO
August 2	Board adopted Annual Calendar of Regularly Scheduled Meetings for 2010-2011.	CSO
August 31	4 <sup>th</sup> Quarter Financial Statements, if applicable – quarter ending 06/30.	CSO
August 31 UPSM HS	Legal Opinion confirming that the Academy Board's approval and execution of any real property lease or other agreement with Educational Management Company, the Contract Administrator, the Applicant or affiliate of the Applicant complies with the Contracts of Public Servants with Public Entities statute, MCL 15.321 <i>et seq.</i>	CSO
August 31 UPSM HS	Copy of an AHERA asbestos plan and lead based paint survey, if applicable, for the Academy's school facility.	CSO
August 31 UPSM HS	Copy of the current boiler inspection/approval, if applicable, for the Academy's school facility.	CSO
August 31 UPSM HS	Documentation confirming that the Academy has received occupancy approval from the Michigan Department of Consumer and Industry Services Office of Fire Safety for the Academy's school facility.	CSO
August 31 UPSM HS	Documentation of food service license expiring 04/30/2011.	CSO
August 31 UPSM HS	Documentation that the Academy obtained a short-term cash flow loan to cover initial costs of the operations for the initial academic year, if applicable.	CSO
September 3	Organizational Chart for 2010-2011.	CSO
September 3	Board approved Student Handbook 2010-2011.	CSO
September 3	Board approved Employee Handbook 2010-2011.	CSO
September 3	Copy of School Improvement Plan covering 2009-2010 academic year.	CSO
October 1	Annual Nonprofit Corporation Information Update for 2010. CSO will	CSO

DUE DATE	REPORT DESCRIPTION	SUBMIT TO:
	confirm filing via DLEG website.	
October 1	Completed PSA and ESP/MC Insurance Questionnaires. Required forms available at <a href="http://www.gvsucso.org">www.gvsucso.org</a> .	CSO
October 15	Audited Financial Statements for fiscal year ending June 30, 2010, if applicable. *Due to MDE by November 15.	CSO
October 15	Management Letter (comments and recommendations from independent financial auditor) for fiscal year ending June 30, 2010, if issued. If a management letter is not issued, a letter from the Academy stating a management letter was not issued is required to be submitted.	CSO
October 15	Annual A-133 Single Audit for year ending June 30, 2010 is required if over \$500K in federal funds have been expended. If a single audit is not necessary, a letter from the Academy stating as such	CSO
October 15	DS-4898 PSA Preliminary Pupil Membership Count for September 2009 Enrollment and Attendance for 1 <sup>st</sup> & 2 <sup>nd</sup> Year PSAs only (See MDE website, <a href="http://www.michigan.gov/mde">www.michigan.gov/mde</a> for MDE due date).	CSO
October 15	Annual Education Report for the 2009-2010 academic year to be submitted and presented at a public meeting.	CSO
October 29	1 <sup>st</sup> Quarter Financial Statements – quarter ending 09/30.	CSO
December 1	Academy's Technology Plan covering 2010-2011 or annual updates thereto.	CSO
January 7	Modifications to ISD's Plan for the Delivery of Special Education Services covering 2010-2011 signed by a representative of the Academy.	CSO
January 31	2 <sup>nd</sup> Quarter Financial Statements – quarter ending 12/31.	CSO
January 31	Michigan Highly Qualified Teacher Verification Report. Required Form Available at <a href="http://www.gvsucso.org">www.gvsucso.org</a> .	CSO
April 19	DS-4168-B District Report of Planned Number of Days and Clock Hours of Pupil Instruction for 2010-2011 (See MDE website <a href="http://www.michigan.gov/mde">www.michigan.gov/mde</a> for MDE due date).	CSO
April 29	3 <sup>rd</sup> Quarter Financial Statements – quarter ending 03/31.	CSO
May 13	Notice of Open Enrollment & Lottery Process or Open Enrollment & Lottery Process Board Policy for 2011-2012.	CSO
June 1	Certificate of Boiler Inspection covering years 2010-2011.	CSO
June 30	Board Approved Amended Budget for 2010-2011 fiscal year (or statement that budget has been reviewed and no amendment was needed).	CSO
June 30	2010-2011 Log of emergency drills, including date, time and results. Sample form available at <a href="http://www.gvsucso.org">www.gvsucso.org</a> .	CSO
June 30	Board adopted Letter of Engagement for year ending June 30, 2011 independent financial audit.	CSO
June 30	Food service license expiring 04/30/2012.	CSO

## ONGOING REPORTING REQUIREMENTS

July 1, 2010 – June 30, 2011

*The following documents do not have a set calendar date; however, they require submission within a certain number of days from board action or other occurrence.*

DUE DATE	REPORT DESCRIPTION	SUBMIT TO:
Immediately	Bills paid that amount to \$10,000 or more as submitted to the Academy Board.	CSO
Immediately	Copies of any Management Contracts, Services Contracts approved by the Academy Board.	CSO
Immediately	Copies of any Equipment Leases.	CSO
Date notice is posted	Academy Board Meeting Record of Postings – cancellations, changes, special meetings, emergency etc. Must include time and date of actual posting.	CSO
14 business days after Board approval	Draft Academy Board Meeting Minutes and Resolutions of regular, special & emergency board meetings.	CSO
14 business days after Board approval	Approved Academy Board Meeting Minutes and Resolutions of regular, special & emergency board meetings.	CSO
30 business days after board approval	Board Adopted Annual Operating Budget for 2010-2011 & Salary/Compensation Transparency Reporting to be available on school website per the State School Aid Act as amended.	No submission needed.
14 business days after Board approval	Oath of Office and written acceptance for each Board Member.	CSO
10 business days after Board approval	Board adopted <i>Amended</i> Budget and General Appropriations Resolution.	CSO
10 days of receipt	Correspondence received from the Michigan Department /State Board of Education requiring a formal response.	CSO
10 days of receipt	Correspondence received from the Health Department requiring a formal response.	CSO
10 days of receipt	Written notice of litigation or formal proceedings alleging violation of Applicable Law or contractual agreements against the Academy, its officers, employees, agents and/or contractors.	CSO
30 days prior to board execution	Board proposed draft Contract Administrator and Educational Management Company Agreements or Amendments.	CSO
5 business days of receipt	Request and Responses to Freedom of Information Requests.	CSO

## ORIGINAL/SUBSEQUENT BOARD POLICY REPORTING REQUIREMENTS

**July 1, 2010 – June 30, 2011**

*The following documents do not have a set calendar date; however, they require an original submission and subsequent submission if Board action is taken making amendments/changes.*

REPORT DESCRIPTION	SUBMIT TO:
Articles of Incorporation. Must have GVSU Board approval before modifying.	CSO
Board of Director Bylaws or Amendments thereto.	CSO
Academy's Educational Goals or Amendments thereto.	CSO
Office of Fire Safety (OFS-40) – original occupancy permit and permits for renovations/additions, etc.	CSO
Lease, Deed of Premises or Rental Agreement and subsequent amendments (includes modular units).	CSO
Any and all Equipment Leases	CSO
Curriculum including any additions/deletions.	CSO
Asbestos Hazardous Emergency Response Act (AHERA) Management Plan. Visit <a href="http://www.michigan.gov/asbestos">www.michigan.gov/asbestos</a> for Michigan's model management plan. A copy of the "acceptance" letter sent by MIOSHA is also required.	CSO
Communicable Disease Curriculum (including minutes of board approval).	CSO
Job Descriptions for all employee groups	CSO
REQUIRED BOARD POLICIES	
<b>Board adopted Purchasing Policy</b> (date of approval). Reference: MCL 380.1267, MCL 380.1274	CSO
<b>Administration of Medications Policy</b> (date of approval). Reference: MCL 380.1178, 380.1178a, 380.1179	CSO
<b>Harassment of Staff or Applicant Policy</b> (date of approval). <b>Harassment of Students Policy</b> (date of approval) Reference: MCL 380.1300a	CSO
<b>Search and Seizure Policy</b> (date of approval). Reference: MCL 380.1306	CSO
<b>Emergency Removal, Suspension and Expulsion of Students Policy</b> (date of approval). Reference: MCL 380.1309; MCL 380.1312(8)&(9); MCL 37.1402	CSO
<b>Parent/Guardian Review of Instructional Materials &amp; Observation of Instructional Activity Policy</b> (date of approval). Reference: MCL 380.1137	CSO
<b>Board Member Reimbursement of Expenses Policy</b> (date of approval). MCL 380.1254; MCL 388.1764b	CSO
<b>Equal Access for Non-School Sponsored Student Clubs and Activities Policy</b> (date of approval). Reference: MCL 380.1299	CSO
<b>Electronic or Wireless Communication Devices Policy</b> (date of approval).	CSO
<b>Preparedness for Toxic Hazard and Asbestos Hazard Policy</b> (date of approval). Reference: MCL 324.8316, 380.1256	CSO

<b>Nondiscrimination Policy</b> (date of approval) Including, but not limited to, Michigan Constitution, Article I, §26, Elliott-Larsen Civil Rights Act, Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975.	CSO
<b>Academy Deposit Policy</b> (date of approval). Reference: PA 105 of 1855, being MCL 21.146, Section 11.10 of the Charter Contract	CSO
<b>Parental Involvement Policy</b> (date of approval). Reference: MCL 380.1294	CSO
<b>Wellness Policy</b> (date of approval). Reference: 42 USC §§1751, 1758, 1766; 42 USC § 1773	CSO

**CALENDAR OF ADDITIONAL REPORTING REQUIREMENTS  
AND CRITICAL DATES  
July 1, 2010 – June 30, 2011**

*The following reports Academies must submit to the local ISD, MDE, CEPI and other organizations throughout the year.*

DUE DATE	REPORT DESCRIPTION	SUBMIT TO:
September 29	Student Count Day for State Aid F.T.E.	No submission required.
September 30	SE-4096 Special Education Actual Cost Report (Contact ISD for due date).	ISD
October 1	Eye Protection Certificate (#4527 Certification of Eye Protective Devices Electronic Grant System [MEGS] if applicable.	CEPI
October 1	Certification of Constitutionally Protected Prayer	MDE
October 7	SE-4094 Transportation Expenditure Report (Contact ISD for due date).	ISD
October 1 – October 31 (as scheduled)	Teacher Certification/Teacher Salaries/Criminal Background Check/Unprofessional Conduct. This is an onsite review scheduled and conducted by Quality Performance Resource Group. No submission required.	No submission needed.
Oct/Nov	School Infrastructure Database (SID); School-Wide Title I Participation	CEPI
Oct/Nov	Deadline for MEIS/Single Record Student Database ("SRSD") electronic file (Contact the local ISD for due date.)	CEPI
November 1	Deadline for Immunization Records Report – IP100. (Contact Health Dept. for due date).	Local Health Dept.
November 15	Deadline for electronic submission to the Financial Information Database (FID, formerly known as the Form B). State aid will be withheld if the submission is not successful.	CEPI
Nov/Dec	Special Education Count on MI-CIS. Special education data must be current and updated in the Michigan Compliance and Information System (MI-CIS). This information is used to determine funding for next year (Contact local ISD for due date).	ISD
December 1 - December 31 (as scheduled)	Teacher Certification/Teacher Salaries/Criminal Background Check/Unprofessional Conduct. This is an onsite review scheduled and conducted by Quality Performance Resource Group. No submission required.	No submission required.
Nov/Dec	Registry of Educational Personnel (REP) Submission	CEPI
December 31	Municipal Finance Qualifying Statement, if applicable (online submission).	MI Dept of Treasury
Feb 1	Deadline for Immunization Record Report – IP100 (Contact Health Dept. for due date). A financial penalty of 5% of a school's state aid allocation can be assessed if the immunization rate is not at 90% or above.	Local Health Dept.
Feb 9	Supplemental Student Count for State Aid F.T.E.	No submission required.

DUE DATE	REPORT DESCRIPTION	SUBMIT TO:
March	FS-4731-C – Count of Membership Pupils eligible for free/reduced breakfast, lunch or milk.	MDE
March	MEIS/Single Record Student Database (“SRSD”) electronic file (Contact local ISD for due date.)	ISD, CEPI
May 1 – May 31 (as scheduled)	Teacher Certification/Teacher Salaries/Criminal Background Check/Unprofessional Conduct. This is an onsite review scheduled and conducted by Quality Performance Resource Group. No submission required.	No submission required.
June/July	MEIS/ Single Record Student Database (“SRSD”) electronic file (Contact local ISD for due date.)	ISD, CEPI
June	Registry of Educational Personnel (REP)	CEPI
June	School Infrastructure Database (SID)	CEPI

## **SCHEDULE 6**

### **INFORMATION TO BE PROVIDED BY ACADEMY AND EDUCATIONAL MANAGEMENT COMPANY**

In accordance with Section 11.16 of the Terms and Conditions, the following described categories of information are to be made available to the public by the Academy, and any Educational Management Company contracted by the Academy, as required under Section 523(1)(k) of the Code, MCL 380.523(1)(k):

1. Contract;
2. List of currently serving Directors with name, address, and term of office;
3. Academy Board policies;
4. Academy Board meeting agendas;
5. Academy Board meeting minutes;
6. Academy Board approved budget and amendments to the budget;
7. Bills paid that amount to \$10,000 or more as submitted to the Academy Board;
8. Quarterly financial reports submitted to the University Charter Schools Office;
9. List of current Academy teachers including individual salaries, copies of teaching certificates or permits, and evidence of compliance with criminal background and records checks and unprofessional conduct checks required under the Code for Academy teachers and school administrators;
10. Curriculum documents and materials submitted to the University Charter Schools Office;
11. Proof of insurance required by Contract;
12. Copies of facility leases or deeds, or both, and of any equipment leases;
13. Copies of any management contracts or services contracts approved by the Academy Board;
14. Health and safety reports and certificates, including those relating to fire safety, environmental matters, asbestos inspection, boiler inspection, and food service;



15. Annual financial audit and any management letters issued as part of the annual financial audit; and
16. Any other information specifically required under the Code.

## INDEPENDENT CONTRACTOR AGREEMENT

This Independent Contractor Agreement (the "Agreement") is made effective as of July 1, 2012 by and between **DETROIT 90/90, LLC**, a Michigan nonprofit corporation ("Detroit 90/90") and **THE PUBLIC SCHOOL ACADEMIES OF DETROIT**, a Michigan public school academy (the "PSAD") formed under Part 6c of the Revised School Code, Public Act 451 of 1976 (the "Code"), as amended.

PSAD is an urban high school academy organized under the Code. PSAD has been issued a contract (the "Contract") by **GRAND VALLEY STATE UNIVERSITY BOARD OF TRUSTEES** (the "Authorizer") to organize and operate one or more urban high school academies.

PSAD and Detroit 90/90 desire to enter into an agreement, as defined in MCL 380.523c(2)(c), whereby PSAD and Detroit 90/90 will work together to deliver systems of educational excellence and services to PSAD and its University Preparatory Science and Math urban high school academy ("UPSM") based on the vision for the PSAD's urban high school academies as described in the Contract and Detroit 90/90's vision of school design, management principles, and the "Educational Program" (defined below).

THEREFORE, the parties agree as follows:

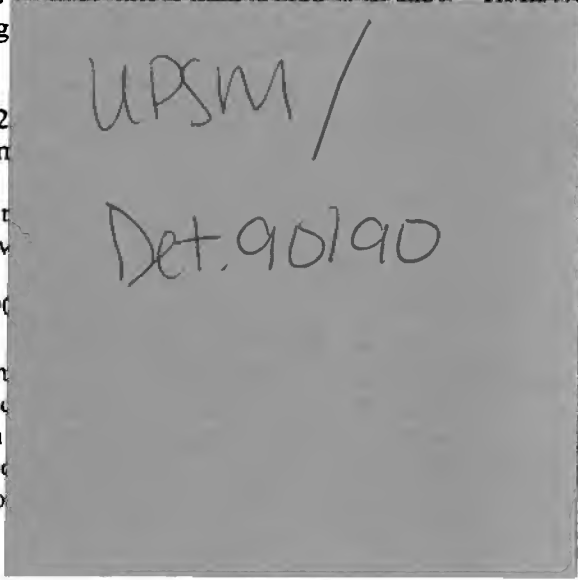
### **ARTICLE I**

#### **Relationship of the Parties and Other Matters**

Section 1. Authority. PSAD represents that (a) it is authorized by law to contract with an educational management organization for the provision of management and operational services to PSAD, and (b) PSAD has been issued the Contract from the Authorizer to organize and operate one or more urban high school academies. To the extent permitted by law, PSAD authorizes and grants power to perform under this Agreement.

Section 2. Agreement. The parties agree that Detroit 90/90, to the extent permitted by law, shall provide all labor, materials, and comprehensive educational, administrative, and operational services contemplated by this Agreement to PSAD (the "Services"). Exhibit A hereto.

Detroit 90/90 shall meet its obligations under the Contract and all applicable laws, including but not limited to, educational goals, curriculum, method of pupil assessment, school year, calendar and school day schedule, standards and methods to be used to monitor compliance, and other matters, as previously adopted by the PSAD Board of Trustees in the "Educational Program" set forth in the Contract (collectively, the



enter into a similar educational management agreement respecting the operation of the PSAD University Preparatory Academy ("UPA") urban high school academy. The CEO for UPSM shall serve as the CEO for UPA. Detroit 90/90 shall provide periodic written updates about a CEO search to the Contract Administrator and PSAD. Detroit 90/90 shall not retain a CEO to which the Contract Administrator or PSAD objects. The CEO shall hold all required certifications as required by the Code. The CEO may be disciplined or terminated by Detroit 90/90 in its sole discretion. Detroit 90/90 shall notify the Board before the termination of the CEO. Detroit 90/90 will have the authority, consistent with applicable laws, to select and supervise the CEO and to hold the CEO accountable for the success of UPSM. Detroit 90/90 will empower the CEO with the authority to select and hold accountable the teachers and staff at UPSM.

Section 9. Criminal Background Checks. Detroit 90/90 agrees that it shall not assign any of its employees, agents or other individuals to perform any services under this Agreement except as permitted under Sections 1230, 1230a, 1230b and related provisions of the Code pertaining to criminal background and criminal conduct checks. Detroit 90/90 shall require that the results of the criminal background check are received, reviewed, and used (subject to a verification process) by the CEO acting on behalf of PSAD and/or the Board, only as permitted by law to confirm that the individual does not have a criminal history and to evaluate the qualifications of the individual for his/her assignment.

Section 10. Unprofessional Conduct Checks. Detroit 90/90 agrees that it will conduct unprofessional conduct checks, in accordance with MCL 380.1230b, before hiring an employee assigned to work at the UPSM worksite.

Section 11. Compliance with Section 523c. On an annual basis, Detroit 90/90 agrees to provide the UPSM Board with the same information that a school district is required to disclose under section 18(2) of the State School Aid Act of 1979, MCL 388.1618, for the most recent school fiscal year for which the information is available. Within thirty (30) days of receipt of this information, the UPSM Board shall make the information available on UPSM's website home page, in a form and manner prescribed by the Michigan Department of Education. The defined terms in section 523c of the Code, MCL 380.523c shall have the same meaning in this Agreement.

Section 12. The Board. The Board is the governing body with oversight responsibilities over PSAD. The parties acknowledge that throughout this Agreement the term "Board" and the term "PSAD" are sometimes used interchangeably in some sections for the sole purpose of readability based on the nature and subject-matter of the article/section.

Section 13. Availability of Funds. Detroit 90/90 shall be liable to PSAD for any cost it commits PSAD to without the Board's approval in the event such cost is beyond the amount in PSAD's budget or any amendment thereto. Detroit 90/90 shall only be required to perform its responsibilities under this Agreement to the extent PSAD has appropriated funds in its budget, as amended.

Section 14. Non-Compete Agreement. Detroit 90/90 agrees that it shall not impose any contractual requirement or contractual obligation on any of its teachers, support staff,

on the applicable Fee Budget for such year of the Term, as agreed between Detroit 90/90 and PSAD.

In the event Detroit 90/90 incurs expenses in amounts less than those set forth in the applicable Fee Budget in any type or classification, resulting in a surplus (a "Budget Surplus") for any year of the Term, Detroit 90/90 shall make a proposal to PSAD for disposition of the Budget Surplus for such year of the Term for PSAD's review and approval. PSAD and Detroit 90/90 must mutually agree to the disposition of the Budget Surplus for such year of the Term. If the parties do not mutually agree to the disposition of the Budget Surplus for such year of the Term after informal discussion, the parties shall participate in mediation and, arbitration, if the matter is not resolved, as set forth in Article X of this Agreement. In the event Detroit 90/90 incurs expenses in amounts more than those set forth in the applicable Fee Budget in any type or classification, resulting in a deficit (a "Budget Deficit") for any year of the Term, Detroit 90/90 shall make a proposal to PSAD for an adjustment for the applicable Fee for such year of the Term for PSAD's review and approval. PSAD and Detroit 90/90 must mutually agree to the proposal for an adjustment for the applicable Fee in the event of a Budget Deficit for any year of the Term. If the parties do not mutually agree to the adjustment for the applicable Fee in the event of a Budget Deficit for any year of the Term after informal discussion, the parties shall participate in mediation and, arbitration, if the matter is not resolved, as set forth in Article X of this Agreement. Notwithstanding the foregoing, Detroit 90/90 shall give PSAD written notice not less than fifteen (15) days after becoming aware of a potential Budget Deficit.

Upon receipt of PSAD State Aid funds, PSAD shall immediately deposit those funds in an account mutually agreed upon by the parties and administered by the CEO of Detroit 90/90.

**Section 2. Reimbursement of Costs.** In addition to the Fee, PSAD shall reimburse Detroit 90/90 for all costs reasonably incurred and paid by Detroit 90/90 in providing the Services specifically related to PSAD except for those costs which are included in the applicable Fee Budget. Such reimbursable costs include, but are not limited to, certain employment or retention costs of Detroit 90/90 employees or staff assigned to UPSM, other expenses for building facilities, equipment, software, supplies, food service, transportation, special education, psychological services, and medical services. Detroit 90/90 will invoice PSAD for reimbursement of certain employment or staff costs of Detroit 90/90 employees or staff assigned to UPSM. Detroit 90/90 will invoice PSAD for reimbursement of all other costs not included in the applicable Fee Budget with a detailed receipt of material or services provided. PSAD shall only reimburse for costs included in an annual operating budget approved by the Board or as amended during the academic year. In paying such costs on behalf of PSAD, Detroit 90/90 shall not charge an added fee (or mark-up). Marketing and development costs paid by or charged to PSAD shall be limited to those costs specific to UPSM. Detroit 90/90 shall not include any costs for the marketing and development of Detroit 90/90 nor any other corporate costs of Detroit 90/90, including but not limited to insurance, audit, legal other corporate compliance expenses, or miscellaneous costs that are too detailed and burdensome to attribute to UPSM. All such non-reimbursable costs are the responsibility of Detroit 90/90 and shall be paid out of the Fee or such other revenue of Detroit 90/90. A complete description of costs that are not to be allocated to PSAD and UPSM are included in the Fee Budget.

PSAD's failure to timely remit the Fee, all payroll costs, or any reimbursement due to Detroit 90/90. PSAD has thirty (30) days after notice from Detroit 90/90 to remedy a breach that involves the advancement of funds for all compensation required for payroll or to reach an agreement with Detroit 90/90 on the payment of those funds.

Termination before the end of the Term shall not relieve PSAD of any financial or other obligations to Detroit 90/90 outstanding as of the date of termination. Failure by Detroit 90/90 to (a) declare a breach, (b) place PSAD on notice thereof, or (c) fail to exercise or exert any remedy available to Detroit 90/90 under this Agreement or applicable laws, shall not be deemed a waiver of Detroit 90/90's right and remedies whatsoever.

Section 2. Termination by PSAD. PSAD may terminate this Agreement before the end of the Term in the event that Detroit 90/90 fails to remedy a material breach within the required time frames below. A material breach includes, but is not limited to:

- a. Failure by Detroit 90/90 to reasonably account for its expenditures;
- b. Failure by Detroit 90/90 to pay PSAD operating expenses as required under this Agreement (provided funds are available);
- c. Failure by Detroit 90/90 to substantially follow policies, procedures, rules, regulations, or curriculum duly adopted by the Board which are not in violation of applicable laws or this Agreement;
- d. Failure by Detroit 90/90 to provide the Services as required by this Agreement; and/or
- e. Any action or inaction by Detroit 90/90 that places the Contract in jeopardy of revocation, suspension or termination, as evidenced by written notification from the Authorizer.
- f. Failure to meet the educational performance requirements in the Contract, any lease agreement entered into by PSAD for the operation of UPSM, or in Schedule B to this Agreement.

Detroit 90/90 has ten (10) days after notice from PSAD to remedy a breach that involves the non-payment of funds for all "compensation" required for payroll (provided that Detroit 90/90 has received such funds from PSAD to do so) or to reach an agreement with PSAD on the payment of those funds. Detroit 90/90 has thirty (30) days after written notice from PSAD to remedy all other material breaches.

Either party may also terminate this Agreement without cause before the end of the Term by giving written notice of termination to the other party by December 1 of a particular year, and unless otherwise agreed to by the parties, the termination shall be effective as of June 30 of the following year. Notice of termination provided after December 1 shall not be effective until one year after June 30 of the following year.

2. use its best efforts to maintain its relations and good will with suppliers, customers, landlords, creditors, employees, agents and others having business relationships with it.
3. make no material changes in administrative, operational, or management personnel, including the chief administrative officer, superintendent for UPSM, principals for each of the UPSM schools, or teaching staff without prior written approval of PSAD.
4. use its best efforts not to disturb UPSM's relations and good will with parents, students and the educational community relating to the operation and management of UPSM and otherwise comply with this Agreement;
5. comply with all legal requirements and contractual obligations assigned to it applicable to the operations of UPSM;
6. continue in full force and effect all required insurance coverages;
7. cooperate with PSAD in identifying the governmental authorizations or other approvals including but not limited to those regarding UPSM facilities, required by PSAD to operate UPSM; and
8. prepare and provide to PSAD within thirty (30) days of the provision of notice of termination, at Detroit 90/90's own expense, a draft transition agreement which shall specifically detail and plan for each and every transition issue and provide a timeline for addressing each issue.

Section 6. Personal Property upon Termination or Expiration. Upon any termination or the expiration of this Agreement, PSAD may elect (a) to purchase any personal property which has been purchased or leased from a third party solely with Detroit 90/90 funds, provided such purchase or lease is permitted under the purchase or lease documents relating thereto, at the fair market, depreciated value of such personal property or (b) to return same to Detroit 90/90. All personal property purchased or leased by Detroit 90/90 using PSAD funds shall remain the personal property of PSAD. PSAD shall own, without restriction, all property, tangible and intangible, purchased, licensed, or acquired in any fashion by or for PSAD, or by or with PSAD funds.

Section 7. Obligations Upon Termination or Expiration. Upon any termination or the expiration of this Agreement, the parties shall remain obligated for all financial or other obligations due at the time of the termination or expiration. After any termination or the expiration of this Agreement, and once all such obligations referenced above are satisfied, the parties shall have no further obligations to each other under this Agreement whatsoever except for the continuing obligations under (a) Article V (confidentiality and non-use/non-disclosure of proprietary information) and (b) Article VII (indemnification).

## ARTICLE VII

### Indemnification & Cooperation

Section 1. Indemnification of Detroit 90/90. To the extent permitted by law and without waiving any privilege or immunity, PSAD shall indemnify and save and hold Detroit

## **ARTICLE VIII**

### **Insurance**

Section 1. Academy Insurance. PSAD shall maintain such policies of insurance coverage in the amounts as required by the Contract. PSAD agrees to add Detroit 90/90 as an additional insured on all policies.

Section 2. Detroit 90/90 Insurance. Detroit 90/90 shall maintain separate general liability and umbrella insurance coverage, with PSAD listed as an additional insured on all policies. Detroit 90/90 shall maintain such policies of insurance in the amounts as required by the Contract and any lease agreement entered into by PSAD for the operation of UPSM.

Section 3. Evidence and Notices. Each party shall, upon written request, present evidence to the other that it maintains the requisite insurance.

Section 4. Workers' Compensation Coverage. Additionally, each party shall maintain workers' compensation insurance, as required by state law, covering their respective employees, if any.

## **ARTICLE IX**

### **Warranties and Representations**

Section 1. Warranties and Representations of PSAD. PSAD represents to Detroit 90/90 that it has the authority under law to execute, deliver and perform this Agreement and to incur the obligations provided for under this Agreement, and its actions have been duly and validly authorized.

Section 2. Good Standing. Detroit 90/90 represents and warrants to PSAD that (a) it is a Michigan limited liability company in good standing duly authorized to conduct business in the state of Michigan, (b) it has the authority under applicable laws to execute, deliver and perform this Agreement and to incur the obligations provided for under this Agreement, (c) its actions have been duly and validly authorized, and (d) it will adopt any and all resolutions required for execution of this Agreement.

Section 3. Contract Administrator. Detroit 90/90 represents and warrants that it has a thorough understanding of the Contract Administration Agreement entered into by PSAD and the Contract Administrator dated August 28, 2008 as provided by the Contract and the Code and that Detroit 90/90 shall cooperate in such a manner so as to allow PSAD and the Contract Administrator to comply with their respective obligations and exercise their respective rights under the Contract Administration Agreement.

Section 4. Facilities. Detroit 90/90 represents and warrants that it has a thorough understanding of the facilities that are provided by PSAD, and all applicable documentation including lease agreements, certificate of occupancy, and all other permits, to operate UPSM and that such facilities allow Detroit 90/90 to undertake and meet its obligations herein.

Section 5. Other Schools. Detroit 90/90 represents and warrants that, other than entering into an educational management agreement with PSAD for the operation of UPSM

Section 2. Arbitration. If the mediation does not result in a mutually satisfactory compromise, then the matter shall be resolved by arbitration, and such procedure shall be the sole and exclusive remedy for such matters, except for the pursuit of injunctive or equitable relief. Any dispute, difference, or disagreement arising under or related to this Agreement shall be referred to a single arbitrator, mutually agreed upon by the parties, or if no single arbitrator can be agreed upon, an arbitrator shall be selected in accordance with the rules of the American Arbitration Association and such dispute, difference, or disagreement shall be settled by arbitration in accordance with the then prevailing Commercial Rules of the American Arbitration Association, and judgment upon the award rendered may be entered in any court having jurisdiction thereof. All arbitration proceedings shall take place exclusively in the State of Michigan in Wayne or Oakland County, Michigan. If the parties are unable to agree on a mutual location for the arbitration, the arbitration shall take place at the Southfield Office of the American Arbitration Association. The arbitrator's award shall be final and binding. Each party shall be responsible for their own costs and attorneys' fees.

## **ARTICLE XI**

### **Miscellaneous**

Section 1. Entire Agreement. This Agreement supersedes and replaces any and all prior written or oral agreements and understandings between PSAD and Detroit 90/90 regarding the subject matter hereof. This Agreement, including all Exhibits and Schedules, constitutes the entire agreement of the parties.

Section 2. Force Majeure. Notwithstanding any other sections of this Agreement, neither party shall be liable for any delay in performance or inability to perform due to acts of God or due to war, riot, embargo, fire, explosion, sabotage, accident, labor strike, flood, terrorism, or other acts beyond its reasonable control.

Section 3. Governing Law. This Agreement and the rights of the parties shall be interpreted according to the laws of the state of Michigan.

Section 4. Official Notices. All notices or other communications required by the terms of this Agreement shall be in writing and sent to the parties at the addresses set forth below. Notice may be given by certified or registered mail, postage prepaid, return receipt requested, traceable carrier or personal delivery. Notices shall be deemed to have been given on the date of personal delivery, or, if given by mail, the postmark date. Unless amended or updated in writing, the addresses of the parties hereto for the purposes of this Agreement shall be:

PSAD:

The Public School Academies of Detroit  
c/o Board President  
610 Antoinette  
Detroit, MI 48202

and



invalid portion or term as minimally as possible to cure the invalidity, while at all times preserving the spirit and purpose of the applicable portion or term.

Section 10. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns.

Section 11. No Third Party Rights. This Agreement is made for the sole benefit of PSAD and Detroit 90/90. Except as otherwise expressly provided herein, nothing in this Agreement shall create or be deemed to create a relationship between the parties, or either of them individually with any third person, third party beneficiary, fiduciary, or the Authorizer.

Section 12. Survival of Termination. All representations, warranties, indemnities, and non-disclosures/confidentiality obligations made in this Agreement shall survive any termination or expiration of this Agreement without limitation.

Section 13. Delegation of Authority; Compliance with Laws. Nothing in this Agreement shall be construed as delegating to Detroit 90/90 any of the powers or authority of the Board which are not subject to delegation by the Board in accordance with all applicable laws. The parties agree to comply with all applicable laws.

Section 14. Execution in Counterparts. The parties may execute this Agreement by facsimile or in counterparts. A facsimile or photographic copy of this Agreement may be relied upon by either party, or any third party, as if it were an original signature copy. If this Agreement is executed in counterparts, the separate counterpart signature pages shall be combined and treated by the parties, or any third party, as if the separate counterpart signature pages were part of one original signature copy.

Section 15. Review by Independent Counsel. The parties agree that each has reviewed, or had the opportunity to review, this Agreement with its own independent legal counsel prior to the execution of this Agreement.

[Signature Page Follows]

**EXHIBIT A**  
**TO**  
**INDEPENDENT CONTRACTOR AGREEMENT**

The purpose of this Exhibit A is to set forth and define the Services to be provided by Detroit 90/90 pursuant to the Agreement.

**EDUCATIONAL MANAGEMENT SERVICES  
TO BE PROVIDED BY DETROIT 90/90, LLC**

- A. Detroit 90/90 shall implement the Educational Program (defined in Article I, Section 2 of the Agreement). Substantial modification of the Educational Program may only occur with the prior written consent of the Board and, if required, an amendment to the Contract which requires Authorizer approval.
- B. Detroit 90/90 may perform functions other than instruction, including but not limited to purchasing, professional development and administrative functions off-site (i.e., not on PSAD property), unless prohibited by applicable laws. Student records are the property of PSAD shall be maintained by Detroit 90/90 at the corresponding PSAD UPSM's sites.
- C. Although the Board shall be responsible for establishing and implementing recruitment admission policies in accordance with the Educational Program and the Contract, Detroit 90/90 shall enroll students for PSAD in accordance with such policies provided that the policies are in compliance with the contract and applicable laws.
- D. Detroit 90/90 shall provide student due process hearings in compliance with all applicable laws, to an extent consistent with PSAD's own obligations as to students only (and not as to faculty).
- E. Detroit 90/90 shall administer and provide the Educational Program in a manner which shall meet federal, state and local requirements, the requirements imposed under the Code and the Contract, and all lease provisions entered into by PSAD for the operation of UPSM.
- F. In order to supplement and enhance the school aid payments received from the state of Michigan, and improve the quality of education at UPSM, Detroit 90/90 shall assist PSAD's endeavors to obtain revenue from other sources (the "Funding Sources"), and in this regard:
1. PSAD and/or Detroit 90/90 may solicit grants and donations in the name of PSAD from various Funding Sources consistent with the mission of PSAD in furtherance of the Educational Program;
  2. PSAD and/or Detroit 90/90 only after written notice to PSAD may apply for and receive grant money in the name of PSAD from various Funding Sources in furtherance of the Educational Program;
  3. PSAD and/or Detroit 90/90 only with prior Board approval may apply for and receive grant money in the name of PSAD from various Funding Sources for activities outside of the Educational Program.

**BUSINESS/FINANCE SERVICES  
TO BE PROVIDED BY DETROIT 90/90, LLC**

- L. Detroit 90/90 shall be directly accountable to the Board for the administration, operation and performance of UPSM in accordance with the Contract. Detroit 90/90 shall not expend UPSM funds in excess of the amount set forth in the PSAD Budget, as amended.
- M. Detroit 90/90 shall be responsible for all of the management, operation, administration and education at UPSM which includes, but is not limited to:
1. implementation and administration of the Educational Program, including administration of any and all extra-curricular and co-curricular activities and programs, and the selection and acquisition of instructional materials, equipment and supplies;
  2. management of all personnel functions, including professional development for all instructional personnel and the personnel functions outlined in this Agreement;
  3. aspects of the business administration (as determined as generally understood in the industry) of UPSM as agreed between Detroit 90/90 and the Board;
  4. any function necessary or expedient for the administration of UPSM consistent with the Educational Program, or otherwise approved by the Board.
- N. Except as otherwise provided in this Agreement, Detroit 90/90 shall keep all student and financial records relating to UPSM at the respective UPSM site, and the same shall be available for public inspection upon reasonable request consistent with applicable laws. All student and financial records will remain the property of PSAD.
- O. Detroit 90/90 shall provide the Board with:
1. a projected annual budget that complies with applicable law before June 1<sup>st</sup> of each school year, related to the Services in accordance with the Contract and the Educational Program;
  2. detailed monthly statements (in a form and as requested by the Board) of all revenues received, from whatever source, with respect to PSAD, and detailed budgets with statements of all direct expenditures (with details) for the Services rendered to or on behalf of PSAD, whether incurred on-site or off-site;
  3. facilitate the annual audit in compliance with applicable laws showing the manner in which funds are spent at PSAD, however, it is acknowledged that only PSAD shall select and retain auditors and PSAD shall contract directly with any auditor of its choice, and Detroit 90/90 will cooperate with the production of any and all documents necessary for the audit. Any such audit and audit materials shall be the property of PSAD; and
  4. other information as reasonably requested by the Board to enable the Board to monitor Detroit 90/90's performance under the Agreement.
- P. Reporting Requirements. Detroit 90/90 shall provide to the Board at least annually the following information to ensure that PSAD can comply with the following statutory reporting requirements, including, but not limited to, MCL 380.523c and MCL 380.1618 and the following:

to the Michigan Public School Employees' Retirement System or any other public retirement system on behalf of its employees.

U. Detroit 90/90 will be responsible for all necessary 401K regulatory and plan documents as required by law.

V. Detroit 90/90 shall conduct criminal background checks and unprofessional conduct checks on its employees that are assigned to PSAD and all subcontractors assigned to regularly and continuously work under contract in PSAD as required by law, as if it were a public school academy under the Code.



	UPSM
Budgeted Student Count	828
	32%
Salaries and benefits	
Insurance	\$ 630,021
Professional development	27,500
Professional fees	1,762
Equipment	10,570
Internet/Phones/Email/Copier	3,844
Meetings & Conferenes	9,225
Office expense	2,082
Travel & Transportation	3,844
Contingency	1,602
Non-Recurring Expenses:	3,203
Consultants	
Recruiter Fees	3,203
	18,578
Total expenses	\$ 715,433

## Detroit 90/90

### Our Program. Our Performance. Our Promise.

Detroit 90/90 believes that its schools—University Preparatory Academy (UPA) and University Prep Science & Math (UPSM)—offer a powerful and unique model for teaching and engaging urban children. Our schools are dedicated to educating the whole child in ways that prepare students for success in college, other post-secondary training, and life, as well as ensure high performance on required standardized tests and college entrance exams.

University Prep Schools understand that true college readiness does not depend solely on students' academic success and mastery of standards. Readiness also hinges on developing students as confident, motivated self-managers and problem solvers, with a variety of talents and experiences. These are the characteristics and traits we build in our students, and the reasons our schools are able to graduate students who persist in college and fulfill their dreams.

Key elements of the University Prep Schools model that ensure college readiness for graduates, and are supported by research-based practices, include:

- Rigorous curriculum designed to meet state and federal standards at every level. The University Prep Schools curricula is designed to achieve the benchmarks set out in Michigan's Curriculum Framework and the ACT College Readiness standards—and will evolve to meet the new Common Core standards. Our schools ensure student success on challenging work by providing support in different ways—starting with small classes, personalized learning plans for every student and differentiated instruction that enables advanced learners as well as struggling students to connect to academic content and reach their potential.
- Intentional strategies to build and maintain strong relationships between and among students, parents, and teachers, including small schools, small class sizes, working with a primary teacher/advisor for multiple years, and individual Learning Team meetings. The Advisory program engages students in their learning and gives them the anchor of a caring adult who knows them well. A small and supportive classroom community helps students find their passion, discover dreams, plot their plans and hone the habits of mind and work essential to success in college and in life.
- Curiosity, focus, and effort are critical to student learning. University Prep Schools use personal relationships, a culture of success, integration of technology, and fun, interest-based projects to ensure strong student engagement. When learning is fun, learners invest much more energy and imagination in getting through the hard work. In addition, we employ a wide range of practical, authentic, real-world experiences, from meaningful internships and community service to International travel and college campus tours, to complement academic instruction so that students can navigate the global marketplace with confidence and competence.
- Being able to think, talk, write, and speak about what's being learned is crucial to becoming the self-directed learner demanded for success in college and the world of work. From kindergarten through the 12th grade, University Prep Schools students present public exhibitions of their work several times each year.
- An emphasis on staff development that focuses on effective teaching and learning strategies and continuous improvement. Opportunities for reflection, team critique and data analysis are built into our model. Staff development also is an opportunity for student monitoring and real-time intervention. University Prep Schools use multiple measures that include state achievement tests, the Measures of Academic Progress, ACT practice tests, and a wide variety of classroom-based and building-based assessments to monitor student achievement. The results of these measures are reviewed continuously throughout each school year, and used to identify students needing supplementary instruction. All University Prep Schools have designed robust supplementary instructional programs that offer additional learning opportunities within the school day, after school, and throughout the summer.

Rev. Dated October 31, 2012

*For the middle schools:*

- Average daily attendance rate for students shall be at least 90% for each school year.
- Eighth graders will score within 10 percent of the state average in reading and math on the state exam, currently the MEAP, and outperform selected districts serving students from comparable demographic backgrounds.
- The middle schools in the University Prep Schools system will administer the Explore—or the actual ACT—to prepare students for success on the high stakes exam.
- Re-enrollment rates shall result in at least 75% of eligible eighth grade students entering the high schools upon graduation from the middle schools each year (students who migrate from middle schools, students who move to other high performing schools as defined by MDE, and students who move out of the area are included in the percentage).
- University Prep Schools will meet whatever metric the state determines will replace Adequate Yearly Progress (AYP).

*For the elementary schools:*

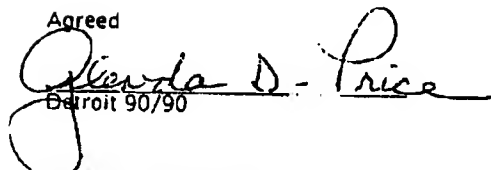
- Each year, at least 90% of the eligible fifth graders will enter the middle schools the following fall.
- 75% of the sixth graders entering the middle schools who attended the elementary schools since kindergarten will read at or above grade level.
- Average daily attendance rate for students shall be at least 90% for each school year.
- University Prep Schools will meet whatever metric the state determines will replace Adequate Yearly Progress (AYP).

**Detroit 90/90 Mandatory Reporting Requirements**

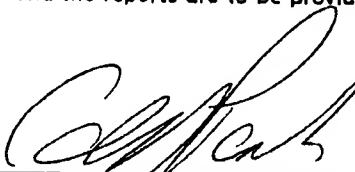
*For all schools:*

- Annually, the PSAD Board will be provided certain mandatory reporting data as outlined and in the format as depicted in attached Exhibit. This data and the reports are to be provided by October 31" of each school year.

Agreed

  
Glenda D. Price  
Detroit 90/90

BLOOMFIELD 18030-32 1231915v2

  
Public School Academies of Detroit





# EXHIBIT B.1

1 of 3

## PSAD - UPSM Required Reporting - ENROLLMENT SUMMARY

Date of Report: \_\_\_\_\_

UNIVERSITY PREP SCIENCE AND MATH DISTRICT				
SUMMARY ENROLLMENT DATA	K-5 - FALL 2013	Middle School	High School	Total

LAST YEAR at 5/3/12

ORIGINAL BUDGET

DASHBOARD REPORT - PSAD BOARD MTG 9/25/12

ENROLLMENT COUNT DAY 10/3/12

ENROLLMENT BY :				
GRADE - COUNT	K-5 - FALL 2013	Middle School	High School	Total
DAY 10/3/12				

K				
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
TOTAL				

Individual Classroom Student Size - COUNT DAY Fall 2013					
GRADE	K-5 - Fall 2013	K-5 - Fall 2013	K-5 - Fall 2013	K-5 - Fall 2013	Total for K-5 - Fall 2013

K					
1					
2					
3					
4					
5					
TOTAL					

**NOTE: FOR Middle School and High School - Submit report named "Count of Studentid" generated through PowerSchool, by Detroit 90/90 Central Office Staff.**

PSAD - UPSM Required Reporting - GRADE TO GRADE TEACHER ATTRITION				
UNIVERSITY PREP SCIENCE AND MATH DISTRICT				
Building	# of Teachers @ end of 2011-12 school year	# of Teachers that left UPA	# of new Teachers hired	# of Teachers at start of school - Fall 2012

K-5 -Fall 2013

Middle School

High School

TOTAL

Type of Employee	Number @ end of 2011-12 school year	Number that left UPA	# of new hires	Number at start of school - Fall 2012
------------------	---	-------------------------	----------------	--

Principal

Team Leaders

Special Education

Specialists

Counselors

Other Teaching

Other

TOTAL

The undersigned execute this Agreement as of the date set forth above.

**PUBLIC SCHOOL ACADEMIES OF  
DETROIT**, a Michigan nonprofit corporation

By: 

Edward Parks, President

**DETROIT 90/90**, a Michigan nonprofit  
corporation

By: 

Dr. Glenda Price, President

BLOOMFIELD 38030-2 | 222807v1

Section 3. Compliance with the Contract. Detroit 90/90 agrees to perform its duties and responsibilities under this Agreement in a manner that is consistent with PSAD's obligations under the Contract issued by the Authorizer. The provisions of the PSAD's Contract shall supersede any competing or conflicting provisions in this Agreement.

Section 4. Relationship of the Parties. Detroit 90/90 is not a division or any part of PSAD. PSAD is not a division or any part of Detroit 90/90 and is a separate corporate and governmental entity authorized under the Code. The relationship between the parties was developed and entered into through arms-length negotiation and is based solely on the terms of this Agreement.

Section 5. Detroit 90/90 as Independent Contractor; Agency. In the performance of Services under this Agreement, Detroit 90/90 (its officers, directors, employees, and designated agents) shall be regarded at all times as performing services as independent contractors of PSAD. No agent or employee of Detroit 90/90 shall be determined to be an agent or employee of PSAD, except as expressly acknowledged, if at all, in writing, by PSAD. Notwithstanding the foregoing, Detroit 90/90 and its staff are designated as agents of PSAD for the limited purpose of allowing them access to educational records under the Family Educational Rights and Privacy Act, 20 U.S.C. §1232(g), during the Term of this Agreement (defined below).

During the Term of this Agreement, PSAD may disclose confidential data and information to Detroit 90/90, and its respective officers, directors, employees and designated agents to the extent permitted by applicable law, including without limitation, the Individual with Disabilities Education Act ("IDEA"), 20 USC §1401 et seq., 34 CFR 300.610 -300.626; Section 504 of the Rehabilitation Act of 1973, 29 USC §794a, 34 CFR 104.36; the Michigan Mandatory Special Education Act, MCL 380.1701 et seq.; the American with Disabilities Act, 42 USC §12101 et seq.; the Health Insurance Portability and Accountability Act ("HIPAA"), 42 USC 1320d - 13200d-8; 45 CFR 160, 162 and 164; and social security numbers, as protected by the federal Privacy Act of 1974, 5 USC §552a; and the Michigan Social Security Number Privacy Act, MCL 445.84.

Detroit 90/90 will be solely responsible for its acts, the acts of its agents, employees, and those subcontractors who are contracted through Detroit 90/90.

Section 6. No Related Parties or Common Control. The parties agree that none of the voting power of the governing body of PSAD or the Board will be vested in Detroit 90/90 or its directors, members, managers, officers, shareholders, or employees. Further, PSAD and Detroit 90/90 are not, and shall not become: (a) members of the same controlled group, as that term is defined in the Internal Revenue Code of 1986, as amended (the "IRS Code"); or (b) related persons, as that term is defined in the IRS Code.

Section 7. Teachers. Teachers or staff employed or retained by Detroit 90/90 shall not be considered employees of PSAD or teachers for purposes of continuing tenure under MCL 38.71 et seq.

Section 8. Chief Executive Officer. Detroit 90/90 shall identify and retain a Chief Executive Officer ("CEO") for UPA. PSAD and Detroit 90/90 understand that they will also

principals, agents or others under its employ, who are currently working to enter into a non-compete provision or agreement.

## **ARTICLE II**

### **Term**

This Agreement shall be effective for a three (3) year period beginning July 1, 2012 and ending June 30, 2015 (the "Term"), subject to earlier termination under Article VI.

## **ARTICLE III**

### **Obligations of the Academy**

Section 1. Good Faith Obligation. PSAD shall exercise good faith in considering recommendations by Detroit 90/90 relative to the Educational Program.

Section 2. PSAD Funds. The Board shall determine the depository of all funds received by PSAD including, but not limited to, the State School Aid and any Additional Revenue. All funds received by PSAD shall be deposited in PSAD's depository account. Signatories on the depository account shall be members of the Board or properly designated Board agents, which may include employees or agents of Detroit 90/90. All interest or investment earnings on PSAD deposits shall accrue to PSAD.

Section 3. Building Facilities. PSAD shall provide reasonable access, at no cost, to the Building Facilities as described in the Contract to Detroit 90/90 for the provision of Services and the Educational Program.

## **ARTICLE IV**

### **Compensation and Reimbursement of Costs**

Section 1. Compensation for Services. During the first year of the Term of this Agreement, the Board shall pay Detroit 90/90 an annual fee equal to eleven and two tenths percent (11.2%) of the total aid received by PSAD attributed to UPA from the state of Michigan, pursuant to the State School Aid Act of 1979, as amended, for the particular number of students enrolled in PSAD after deduction of the fee payable to Grand Valley State University pursuant to PSAD's Charter Contract (the "Fee"). Detroit 90/90 shall receive the Fee in twelve (12) installments of approximately equal monthly amounts beginning in July of each academic year and ending in the following June.

The parties agree that the Fee amount is reasonable compensation for the provision of the Services and Detroit 90/90's incurring of non-reimbursable expenses of the types and classifications, and in the amounts, set forth in Schedule A (the "Fee Budget"), as adjusted for each year of the Term. PSAD and Detroit 90/90 agree to make adjustments to the Fee as necessary because of factors such as differences in actual and projected enrollments, differences between actual and projected operating expenses and funding changes mandated by federal, state or municipal sources. At no time shall the Fee be less than \$850,000.00 annually or greater than \$1,700,000.00 annually. The Fee shall be Detroit 90/90's sole compensation under this Agreement. For each subsequent year of the Term of this Agreement, the Fee shall change based

If desired, PSAD may advance funds to Detroit 90/90 for such costs before such costs are incurred (rather than reimburse Detroit 90/90 after the expense is incurred). Detroit 90/90 shall provide to PSAD or the Board proper documentation and accounting of any advanced funds or reimbursement, and such accounting shall be periodically ratified by PSAD.

All items acquired with PSAD funds including, but not limited to, instructional materials, equipment, supplies, furniture, computers, and all other technology, shall be owned by and remain the property of PSAD.

Detroit 90/90 shall not obligate PSAD to any loan, financing arrangement, or lease whether or not in Detroit 90/90's name for the benefit of PSAD without the prior written approval of PSAD and in accordance with the Contract.

Section 3. Review of Budget. Detroit 90/90 shall timely prepare and propose an annual budget and all appropriate amendments in accordance with applicable law for UPA and the Board's review and consideration.

Section 4. Procurement Policies. The Board retains the obligation, as provided in Section 1274 of the Code, to adopt written policies governing the procurement of supplies, materials, and equipment to PSAD. Unless otherwise prohibited by law, Detroit 90/90 shall directly procure all supplies, materials, and equipment provided that Detroit 90/90 complies with Section 1274 of the Code, and the Board's written policies promulgated thereunder related to such items.

## **ARTICLE V**

### **Proprietary Information**

Section 1. PSAD's Rights to Curriculum and Educational Materials. PSAD shall own, without restriction, all proprietary rights to curriculum and educational materials used at UPA, including but not limited to such materials developed during the Term or paid for with PSAD funds.

Section 2. Detroit 90/90's Rights to Curriculum and Educational Materials. Detroit 90/90 shall own, without restriction, all curriculum and educational materials, and all other proprietary information owned by, developed by or otherwise in the possession of Detroit 90/90, except as set forth in this Article.

Section 3. Non-Disclosure of Proprietary Information; Remedy for Breach. Except as specifically required by the Code or the Michigan Freedom of Information Act, the proprietary information and materials of either party shall be held in strict confidence by the other party to this Agreement.

## **ARTICLE VI**

### **Termination**

Section 1. Termination by Detroit 90/90. Detroit 90/90 may terminate this Agreement before the end of the Term in the event PSAD fails to remedy a material breach within the required time frames below. A material breach includes, but is not limited to, (a)

Section 3. Revocation or Termination of Contract. If the Contract, as it relates to UPA only, issued by the Authorizer is revoked or terminated or a new charter contract is not issued or obtained, this Agreement shall automatically terminate on the same date as the Contract is revoked or terminated without further action of the parties, provided, however, that this Agreement will continue to remain in effect until the termination date set forth in Article II if (i) PSAD has entered into a subsequent contract with an authorizing body, and (ii) this Agreement has not been terminated pursuant to Article VI.

Section 4. Change in Law. If any federal, state or local law or regulation, or court or administrative decision, or attorney general's opinion (collectively referred to in this Agreement as the "applicable laws") has a substantial and material adverse impact (as reasonably determined by the party suffering the impact) on the ability of the impacted party to carry out its obligations under this Agreement, then the impacted party, upon written notice, may request a renegotiation of this Agreement. If the parties are unable or unwilling to successfully renegotiate the terms of this Agreement within ninety (90) days after the notice, and after making good faith efforts which shall include, but not be limited to, the use of a third party arbitrator and/or alternative dispute resolution process, the impacted party may terminate this Agreement as of the end of the then-current academic year.

Section 5. Transition. In the event of any termination or expiration of this Agreement, Detroit 90/90 shall provide PSAD reasonable assistance for up to ninety (90) days to assist in the orderly transition away from Detroit 90/90 as the educational management company, or to another educational management company, in whole or in part. Such reasonable assistance shall include but is not limited to the following: Detroit 90/90 shall make staff reasonably available to provide PSAD or Detroit 90/90's successor as educational management company with all information and access to such records and information necessary for the ongoing operation of UPA. Until the expiration of the transition period, Detroit 90/90 shall ensure that PSAD will have timely, reasonable access to all information, systems, electronic databases (including passcodes and electronic keys) necessary to ensure orderly transition including but not limited to the following, to the extent reasonably accessible by Detroit 90/90: all student records; school database and information systems; all free and reduced lunch records/reports; financial and facilities information, vendor subcontracts and other administrative records necessary for school management and operations.

Moreover, after any notice of termination is provided by either party, Detroit 90/90 shall not initiate contact with (i) the parents and legal guardians or students of PSAD directly or indirectly to promote or recruit enrollment for other schools other than PSAD; or (ii) any employee or independent contractor who currently works at or for the educational or administrative operation or management of UPA to hire or retain any employee or independent contractor of a person who currently works at or for the educational or administrative operation or management of UPA.

Moreover, after any notice of termination is provided by either party and until the effective date of termination of this Agreement, Detroit 90/90 shall undertake the following:

1. carry out its obligations under this Agreement in the ordinary course of business;

90/90 and all of its employees, officers, directors, subcontractors and agents, harmless against any and all claims, demands, suits or other forms of liability that may be caused by any negligent or intentional misconduct by PSAD, its officers, directors, employees, subcontractors and agents, or by any failure to act or any omission that causes harm to Detroit 90/90 arising out of this Agreement. In addition, to the extent permitted by law, PSAD shall reimburse Detroit 90/90 for all legal costs and reasonable attorney fees associated with the defense of any such claim, demand or suit. If desired, all or part of the indemnification obligations set forth in this Section 1, may be met by the purchase of insurance by PSAD.

Section 2. Immunities and Limitations. PSAD may assert all privileges; immunities and statutory limitations of liability in connection with any claims arising under this Agreement.

Section 3. Indemnification of PSAD. Detroit 90/90 shall indemnify and save and hold PSAD and all of its employees, officers, directors, subcontractors and agents harmless against any and all claims, demands, suits or other forms of liability that may be caused by any negligent or intentional misconduct by Detroit 90/90, its officers, directors, employees, subcontractors and agents, or by any failure to act or omission by Detroit 90/90 that causes harm to PSAD arising out of this Agreement. In addition, Detroit 90/90 shall reimburse PSAD for all legal costs and reasonable attorney fees associated with the defense of any such claim, demand or suit. If desired, all or part of the indemnification obligations set forth in this section may be met by the purchase of insurance by Detroit 90/90.

Section 4. Mutual Duty to Cooperate. The parties acknowledge that each party has a duty and obligation to cooperate with the other party, and further that such duty to cooperate is a material part of this Agreement.

Section 5. Indemnification of the Authorizer. The parties acknowledge and agree that the Grand Valley State University Board of Trustees, Grand Valley State University and its members, offices, employees, agents or representatives are deemed to be third party beneficiaries for purposes of this Agreement. As third party beneficiaries, the parties hereby promise to indemnify and hold harmless Grand Valley State University Board of Trustees, Grand Valley State University and its members, offices, employees, agents or representatives from all claims, demands, or liability, including attorney fees, and related expenses, on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other losses of any kind whatsoever and not caused by the sole negligence of Grand Valley State University, which arise out of or are in any manner connected with Grand Valley State University Board of Trustees' approval of PSAD's public school academy application, the University Board's consideration of or issuance of a Contract, PSAD's preparation for and operation of a public school, or which are incurred as a result of the reliance by Grand Valley State University and its Board of Trustees members, officers, employees, agents or representatives upon information supplied by PSAD or Detroit 90/90, or which arises out of the failure of PSAD to perform its obligations under the Contract. The parties expressly acknowledge and agree that Grand Valley State University and its Board of Trustee members, officers, employees, agents or representatives may commence legal action against either party to enforce its rights as set forth in this Agreement.



or UPSM, it shall not operate any other school or third party programs, including but not limited to a pre-K school, a public school, a private school, a public school academy, an urban high school academy, a trade school, or an institution of high learning, without the express written consent of PSAD and the Contract Administrator.

Section 6. Change in Control. Detroit 90/90 represents and warrants that it will not amend its articles of incorporation or bylaws without thirty (30) days written notice to PSAD of the proposed Detroit 90/90 amendment(s) to the articles of incorporation or bylaws. PSAD has ten (30) days to respond to the proposed amendment(s) before the proposed amendment(s) become effective. Detroit 90/90 understands and agrees that any amendments to its articles of incorporation or bylaws will not materially impact Detroit 90/90's ability to fulfill its obligations under this Agreement. Detroit 90/90 will provide PSAD and the Contract Administrator with a listing of its current directors, their board titles and their terms of office as of July 1, 2012. Detroit 90/90 will provide PSAD and the Contract Administrator with timely notice of any director resignations. Prior to the election of any new or replacement directors or appointment changes in board positions, Detroit 90/90 will provide PSAD and the Contract Administrator with timely notice of such pending appointments.

Section 7. Naming Rights and Intellectual Property. Detroit 90/90 represents and warrants that it shall not use, or apply for federal trademark status, UPA or UPSM names or marks or substantially similar names or marks in its operation or management of any other school. This includes but is not limited to "UPA," "University Prep," "University Preparatory," "University Preparatory Academy," "UPA," "UPREP," "Uprep," "University Prep Science & Math," and "UPSM," and Detroit 90/90 shall be prohibited from using any of the following: (i) any name containing "University Preparatory" followed by the word "Academy," the words "Science and "Math" or any name the acronym of which would be "UPA" or "UPSM"; and (ii) any name containing "University Prep" followed by the word "Academy," the words "Science and "Math" or any name the acronym of which would be "UPA" or "UPSM"; and (iii) "UPA", "UPSM" or "UPREP" or "Uprep" in any e-mail domains or web addresses; provided, however, that the term "Uprep" may be used as a shorthand or informal reference in marketing communications. Detroit 90/90

## **ARTICLE X**

### **Alternative Dispute Resolution**

Section 1. Mediation. Any and all disputes between the parties concerning any alleged breach of this Agreement or arising out of or relating to the interpretation of this Agreement or the parties' performance of their respective obligations under this Agreement shall first be discussed informally between the parties. In the event that the parties cannot resolve their dispute, the matter shall be submitted to mediation for resolution in Wayne or Oakland County. Both parties must mutually agree upon the mediator selected and shall participate in all meetings in good faith. The mediation shall be conducted in accordance with the rules of the American Arbitration Association seated in Wayne or Oakland County, Michigan, with such variations as the parties and arbitrators unanimously accept. The parties will share equally in the costs of the mediation including forum fees, expenses and charges of the mediator.

Contract Administrator  
P.O. Box 2349  
Plymouth, MI 48170

with a copy to:

Peter H. Webster, Esq.  
Dickinson Wright PLLC  
2600 W. Big Beaver Road, Suite 300  
Troy, MI 48064-3312

Detroit 90/90:

Detroit 90/90  
c/o President  
610 Antoinette Street  
Detroit, MI 48202

With a copy to:

Reginald M. Turner  
Clark Hill PLC  
500 Woodward Avenue, Suite 3500  
Detroit, MI 48226-3435

Section 5. Assignment. This Agreement shall not be assigned (a) by Detroit 90/90, without prior consent of the Board, in writing, which consent shall not be unreasonably withheld; or (b) by PSAD, without the prior consent of Detroit 90/90, in writing, which consent shall not be unreasonably withheld and in a manner consistent with the Authorizer's educational management company policies.

Section 6. Amendment; Effect of Headings. This Agreement may only be amended in writing, signed by a duly authorized representative of each party and in a manner consistent with the Authorizer's educational management company policies. The underlined headings are included for convenience of the reader, and if the underlined headings are inconsistent with the other text the underlined text shall be disregarded.

Section 7. Tax Exempt Financing. If at any time PSAD determines that it is in the best interests of PSAD to obtain financing that is tax-exempt pursuant to the IRS Code, then the parties agree that this Agreement shall be automatically amended for the sole and limited purpose of compliance with Revenue Procedure 97-13. Any such automatic amendment shall be as limited as practicable, and the parties shall promptly execute a written agreement reflecting such amendment, but the failure of the parties to do so shall not affect the effectiveness of the automatic amendment referenced above.

Section 8. Waiver. No waiver of any portion of this Agreement shall be deemed or shall constitute a waiver of any other provision, nor shall such waiver constitute a continuing waiver unless otherwise expressly stated in writing.

Section 9. Severability. The invalidity of any portion or term of this Agreement shall not affect the remaining portions or terms of this Agreement. In the event a portion or a term of this Agreement is deemed invalid, the parties shall cooperatively work together to modify the

The undersigned execute this Agreement as of the date set forth above.

**PUBLIC SCHOOL ACADEMIES OF  
DETROIT**, a Michigan nonprofit corporation

By

  
Edward Parks, President

**DETROIT 90/90**, a Michigan nonprofit corporation

By

  
Dr. Glenda Price, President

4. To the extent permitted under the Code and Contract, and with the approval of the Board, PSAD may charge fees to students for extra services, such as summer and after-school programs, athletics, etc., and charge non-PSAD students who participate in such programs;
5. All funds, other consideration, or property purchased with such funds, received by PSAD, or Detroit 90/90 on behalf of PSAD, from such other revenue sources (generally, the "Additional Revenue") shall inure to, and be the deemed property of, PSAD.
6. Detroit 90/90 shall provide bimonthly reports to PSAD regarding any grant requests for applications, grant application or grant administration status relating to grants or grant applications relating to UPA.

G. Detroit 90/90 may subcontract, with the prior written approval of PSAD, which approval shall not unreasonably be withheld, any and all aspects of the Services, including, but not limited to, food service. However, Detroit 90/90 shall not mark up any costs related to providing the Services.

H. Detroit 90/90 agrees to perform its duties and responsibilities under this Agreement in a manner that is consistent with PSAD's obligations under its Contract issued by Grand Valley State University Board of Trustees. The provisions of PSAD's Contract shall supersede any competing or conflicting provisions contained in this Agreement.

I. Detroit 90/90 shall timely provide reasonably requested or expected information to the Board on a monthly basis, or upon the Board's reasonable request, to enable the Board to monitor Detroit 90/90's performance under this Agreement.

J. Detroit 90/90 shall implement pupil performance evaluations consistent with the Educational Program, which permit evaluation of the educational progress of each PSAD student. Detroit 90/90 shall be responsible for and accountable to the Board for the performance of students who attend PSAD and shall meet the educational performance requirements of the Contract and any lease provision entered into by PSAD for the UPA facilities. At a minimum, Detroit 90/90 shall utilize assessment strategies required by the Educational Program and the Authorizer. PSAD and Detroit 90/90 will cooperate in good faith to identify other measures of and goals for students and school performance. Such other measures of and goals for students and school performance shall be initially identified in a signed writing by the parties and the Contract Administrator by September 10, 2012 and shall be included as **Schedule B** to this Agreement.

K. Detroit 90/90 shall plan and supervise special education services to students who attend UPA. Detroit 90/90 may subcontract these services if it determines that it is necessary and appropriate for the provision of services to students with special needs, or if instruction cannot be met within UPA's program. Such services shall be provided in a manner that complies with applicable laws.

1. Each health care benefits plan, including, but not limited to, medical, dental, vision, disability, long-term care, or any other type of benefits that would constitute health care services, offered to any employee at the Academy.
2. The PSAD audit report conducted for the most recent fiscal year for which it is available.
3. The bids required under section 5 of the public employee health benefits act, 2007 PA 106, MCL 124.75.
4. The total salary and a description and cost of each fringe benefit included in the compensation package for the superintendent of the district and for each employee of the district whose salary exceeds \$100,000.00.
5. The annual amount spent on dues paid to associations.
6. The annual amount spent on lobbying or lobbying services. As used in this subdivision, "lobbying" means that term as defined in section 5 of 1978 PA 472, MCL 4.415.
7. All of the same information that a school district is required to disclose under section 18(2) of the state school aid act of 1979, MCL 388.1618, for the most recent school fiscal year for which that information is available, and make all of such information available through a link on the UPA website homepage, in a form and manner prescribed by the Michigan Department of Education.

**HUMAN RESOURCES SERVICES  
TO BE PROVIDED BY  
DETROIT 90/90, LLC**

Q. Detroit 90/90 shall recommend staffing levels, and select, evaluate, assign, discipline and transfer personnel, consistent with applicable laws, and consistent with the parameters adopted and included within the Educational Program.

R. Detroit 90/90 shall provide PSAD with such teachers, qualified in the applicable grade levels and subjects approved by the Board and consistent with the Contract. Detroit 90/90 shall ensure that the curriculum taught by PSAD's teachers is the curriculum set forth in the Contract. Such teachers may also provide instruction at PSAD on a full or part time basis. If assigned to PSAD on a part-time basis, such teachers may also provide instruction at another institution, or other locations approved by Detroit 90/90. Each teacher assigned or retained to PSAD shall hold a valid teaching certificate issued by the State Board of Education under the Code, to the extent required under the Code and all other requirements as established by the Michigan Department of Education, the Authorizer, and state and federal law.

S. Detroit 90/90 shall work to provide PSAD with support staff, qualified in the areas required. The parties anticipate that such support staff may include clerical staff, administrative assistants and director, bookkeeping staff, maintenance personnel, and the like.

T. Detroit 90/90 shall pay its portion of social security, unemployment, and any other taxes required by law to be paid on behalf of its employees assigned to PSAD and hold PSAD harmless from same. Unless required by applicable laws, Detroit 90/90 shall not make payments

**SCHEDULE A**

See attached.

**SCHEDULE B**

[insert educational performance goals ]

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## **Detroit 90/90 College Ready Goals**

- All graduates will have the drive and motivation to achieve their college, career and life goals.
- All graduates will have the focus and self-discipline necessary to follow their life plan and avoid unnecessary distraction.
- All graduates will have the resilience to rebound from difficulties and persist through challenges.
- All graduates will have the confidence to navigate college, know their learning needs and advocate for them.
- All graduates will have the Habits of Work—Collaboration and Citizenship, Organization, Grit and Tenacity,
- Time Management, Self-Management—essential to success and in demand in the workplace.
- All graduates will have significant strong and enduring relationships with caring adults so that they have an anchor and a resource to call upon when they need support.
  - Detroit 90/90 will develop and maintain tracking procedures to assist in measuring college readiness including tracking graduates 2 years in post-secondary education. Such measures will be reported to PSAD on no less than an annual basis.

## **Detroit 90/90 Performance Metrics**

### ***For the high schools:***

- 90% of the freshman high school class entering the high schools each year shall graduate within four years as measured by the Michigan Department of Education graduation rate formula. In applying the four year measurement test, a very limited exception will be made for certain students not entering the high school in the ninth grade.
- 90% of the students who graduate each year shall attend college, other post-secondary studies or enlist in the military.
- Average daily attendance rate for students shall be at least 90% for each school year.
- University Prep Schools agree to set a goal of a 21 composite ACT score by the 11<sup>th</sup> grade administration of the MME. Progress toward that goal will be measured student—by-student using an agreed upon measure of "reasonable growth," such as the ACT's analysis of such.
- At least 90% of the parents of students enrolled in the high schools shall attend the scheduled learning conferences each school year.
- The enrollment of the incoming freshman class for every year for each of UPA and UPSM shall be 100 or more students.



# EXHIBIT B.1

1 of 3

## PSAD - UPA Required Reporting - ENROLLMENT SUMMARY

Date of Report: \_\_\_\_\_

### UNIVERSITY PREPATORY ACADEMY DISTRICT

SUMMARY ENROLLMENT DATA

K-5 - Ellen  
Thompson

K-5 - Mark  
Murray

Middle School

High School

Total

LAST YEAR - 11/5/12

ORIGINAL BUDGET

DASHBOARD REPORT PSAD BOARD MTG 9/25/12

ENROLLMENT COUNT DAY 10/3/12

### ENROLLMENT BY GRADE - COUNT DAY 10/3/12

K

1

2

3

4

5

6

7

8

9

10

11

12

TOTAL

### Individual Classroom Student Size - COUNT DAY 10/3/12

GRADE	K-5 - Ellen Thompson	K-5 - Ellen Thompson	K-5 - Ellen Thompson	K-5 - Ellen Thompson	Total for K-5 - Ellen Thompson	K-5 - Mark Murray	K-5 - Mark Murray	K-5 - Mark Murray	K-5 - Mark Murray	Total for K-5 - Mark Murray	Total for Both K-5's
K											
1											
2											
3											
4											
5											
TOTAL											

NOTE: FOR Middle School and High School - Submit report named "Count of Studentid" generated through PowerSchool, by Detroit 90/90 Central Office Staff.

**PSAD - UPA Required Reporting - GRADE TO GRADE TEACHER ATTRITION**
**UNIVERSITY PREPATORY ACADEMY DISTRICT**

Building	# of Teachers @ end of 2011-12 school year	# of Teachers that left UPA	# of new Teachers hired	# of Teachers at start of school - Fall 2012
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K-5 -Ellen Thompson

K-5 - Mark Murray

Middle School

High School

**TOTAL**

Type of Employee	Number @ end of 2011-12 school year	Number that left UPA	# of new hires	Number at start of school - Fall 2012
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Principal

Team Leaders

Special Education

Specialists

Counselors

Other Teaching

Other

**TOTAL**

PSAD - UPSM Required Reporting - GRADE TO GRADE STUDENT ATTRITION									
UNIVERSITY PREP SCIENCE AND MATH DISTRICT									
K-5 - Fall 2013		Middle School		High School		ALL SCHOOL BUILDINGS			

GRADE	# of Students @ end of school year - 6/30/13	# of new students enrolled	# of Students @ end of school year - 10/4/13	# of Students @ end of school year - 6/30/12	# of Students that left UPA	# of new students enrolled	# of Students on Count day 10/3/12 next grade up	# of Students @ end of school year - 6/30/12	# of Students that left UPA	# of new students enrolled	# of Students on Count day 10/3/12 next grade up
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K

1

2

3

4

5

6

7

8

9

10

11

12

TOTAL

FOR SIXTH GRADE BELOW, USE UPSM K-5

FOR EIGHTH GRADE BELOW, USE UPSM Middle School

From 5th grade

From 8th grade

From other grades

NOTE: NUMBER OF STUDENTS THAT MATRICULATED TO UPA AND/OR HFA/SCS

Check figures horizontally

## **INDEPENDENT CONTRACTOR AGREEMENT AMENDMENT**

This Independent Contractor Agreement Amendment (the "Amendment") is made effective as of September 10, 2012 by and between **DETROIT 90/90, LLC**, a Michigan nonprofit corporation ("Detroit 90/90") and **THE PUBLIC SCHOOL ACADEMIES OF DETROIT**, a Michigan public school academy (the "PSAD") formed under Part 6c of the Revised School Code, Public Act 451 of 1976 (the "Code"), as amended.

THEREFORE, the parties agree as follows:

PSAD is an urban high school academy organized under the Code. PSAD has been issued a contract (the "Contract") by **GRAND VALLEY STATE UNIVERSITY BOARD OF TRUSTEES** (the "Authorizer") to organize and operate one or more urban high school academies.

PSAD and Detroit 90/90 entered into an Independent Contractor Agreement dated July 1, 2012 (the "UPA-ICA") to deliver systems of educational excellence and services to PSAD and its University Preparatory Academy urban high school academy ("UPA").

PSAD and Detroit 90/90 desire to amend the UPA-ICA.

NOW THEREFORE, in consideration of the premises and the mutual covenants and agreements herein set forth, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree to amend the UPA-ICA, as follows:

1. Paragraph J of Exhibit A shall be amended by restating the paragraph in its entirety as follows:

Detroit 90/90 shall implement pupil performance evaluations consistent with the Educational Program, which permit evaluation of the educational progress of each PSAD student. Detroit 90/90 shall be responsible for and accountable to the Board for the performance of students who attend PSAD and shall meet the educational performance requirements of the Contract and any lease provision entered into by PSAD for the UPA facilities. At a minimum, Detroit 90/90 shall utilize assessment strategies required by the Educational Program and the Authorizer. PSAD and Detroit 90/90 will cooperate in good faith to identify other measures of and goals for students and school performance. Such other measures of and goals for students and school performance shall be initially identified in a signed writing by the parties and the Contract Administrator by **November 1, 2012** and shall be included as **Schedule B** to the Independent Contract Agreement.

[Signature Page Follows]

**AMENDED AND RESTATED  
MANAGEMENT AGREEMENT  
BETWEEN  
CREATIVE URBAN EDUCATION  
AND  
THE PUBLIC SCHOOL ACADEMIES OF DETROIT**

This Amended and Restated Educational Management Company Agreement ("Agreement") is made and entered into as of the 26<sup>th</sup> day of June, 2010 by and between Creative Urban Education, Inc., a Michigan non-profit corporation ("CUE"), and the Public School Academies of Detroit, a Michigan non-profit corporation (the "PSAD").

The following is a recital of facts underlying this Agreement:

The PSAD is organized to operate urban high school academies in Detroit pursuant to the Michigan Revised School Code, Part 6C (the "Code"). The PSAD has been issued a contract, as defined in the Code (the "Contract"), by the Board of Trustees of Grand Valley State University (the "Authorizer Board") on December 14, 2007, as amended, to organize and operate urban high school academies.

CUE is a nonprofit corporation founded with the purpose of bringing a new model of urban schools to the state of Michigan.

The PSAD and CUE desire to create an enduring educational partnership, whereby the PSAD and CUE will work together to bring educational excellence and innovation to one of the PSAD urban high school academies, The Henry Ford Academy: School for Creative Studies ("HFA:SCS"), based on CUE's school design and capacity to implement and manage a comprehensive educational program.

To pursue this purpose, the parties desire to enter into an agreement for the management and operation of HFA:SCS.

PSAD and CUE are parties to the Management Agreement and wish to amend and restate the terms of the Management Agreement with the terms below.

Therefore, it is mutually agreed as follows:

**ARTICLE I  
CONTRACTING**

A. Authority. The PSAD is authorized by the Authorizer Board to provide provision of educational management services. The PSAD is authorized by the Authorizer Board to organize and operate urban high school academies and is therefore authorized by the Authorizer Board to carry out the educational program contemplated in this Agreement. Notwithstanding anything to the contrary in this Agreement, the PSAD's Board of Directors ("PSAD Board"), pursuant to the Code and in accordance with

B. Educational Program. Consistent with the Code, the Contract and the HFA:SCS Goals (as defined in Section G of this Article III), the educational program(s) and program(s) of instruction (collectively, the "Educational Program") provided by CUE at the HFA:SCS may be adapted and modified by CUE from time to time, it being understood that an essential principle of this Educational Program is its flexibility, adaptability and capacity to change in the interest of continuous improvement and efficiency, and that PSAD and CUE are interested in results and not inflexible prescriptions; provided that any modification must be consistent with the Contract and any substantial changes to the Educational Program may require a Contract amendment. The PSAD Board, including its Contract Administrator, shall be consulted before any substantial adaptation or modification to the Educational Program. Where the Code requires PSAD action in connection with the Educational Program, CUE shall advise the PSAD Board, including its Contract Administrator, that such action is required and shall, consistent with the terms of this Agreement, carry out the direction of the PSAD Board.

C. Specific Functions. CUE shall be responsible for the HFA:SCS's management, operation, administration and Education Program. Such functions include, but are not limited to:

1. Implementation and administration of the Educational Program, including the selection and acquisition of instructional materials, equipment and supplies, and the administration of any and all extra-and co-curricular activities and programs approved by the PSAD Board;
2. Management of all personnel functions, including professional development for the School Administrator and all instructional personnel and the personnel functions outlined in Article VI;
3. Operation of the Subleased Premises (defined hereafter) and the installation of technology integral to school design;
4. All aspects of the HFA:SCS's business administration, including but not limited to, the administration of HFA:SCS's financial and bank accounts and the transfer of funds from such accounts for the payment of costs as provided in this Agreement until CUE establishes a dedicated bank account pursuant to Article V, Section M; and
5. Any other function necessary or expedient for the HFA:SCS's administration.

D. Subcontracts. CUE reserves the right to subcontract any and all aspects of services it agrees to provide to the HFA:SCS. However, CUE shall not subcontract the management, oversight or operation of the teaching and instructional program, except as specifically permitted in this Agreement or with the PSAD Board's prior written approval. Henry Ford Learning Institute ("HFLI") will provide to CUE services related to curriculum, technology, and all other services consistent with HFLI's rights and duties under the Education Network Services Agreement to be executed by CUE and HFLI (the "HFLI Network Services Agreement"). Without limiting CUE's rights under this section, CUE may subcontract to HFLI the development, creation, and modification of curricula, technology and procedures to be recommended for HFA:SCS. The total amount charged by CUE to PSAD for such services and

LLC, a Michigan limited liability company (the "Master Tenant") located at 465-485 West Milwaukee, Detroit Michigan 48202 (the "Building Sublease"). TEF-SIX will also sublease the gymnasium from Master Tenant to be constructed adjacent to the Argonaut Building and CUE will sublease such gymnasium from TEF-SIX (the "Gymnasium Sublease"). The building and gymnasium are collectively referred to as the "Subleased Premises." TEF-SIX is a single member limited liability company whose single member is the Contract Administrator. The Contract Administrator will provide a limited guaranty of TEF-SIX's obligations under the Building Sublease. TEF-SIX will sublease the Subleased Premises to CUE and CUE is obligated, pursuant to Article III, Section N below, to provide the Subleased Premises to the PSAD for the operation of the HFA:SCS's middle school and high school grades.

N. Right of Entry. Pursuant to Article III, Section M, of this Agreement, CUE grants to PSAD and its agents, board members, employees, invitees, and students, unconditional permission for the Term of this Agreement to enter upon and use the Subleased Premises for the operation of the HFA:SCS for all purposes contemplated by the Contract issued by the Authorizer Board, including permission to bring upon the Subleased Premises any and all materials, supplies and furniture required to operate the HFA:SCS, and to conduct educational activities on the Subleased Premises, including without limitation, any and all activities which are principal, ancillary, customary and incidental to operating a public school; provided, however, that if the Gymnasium Sublease terminates before this Agreement terminates, PSAD's right of entry to the gymnasium likewise terminates. CUE shall not charge PSAD any License or Right of Entry Fee. The operation of all school activities shall be done in accordance with all applicable laws, this Agreement, and the Contract.

#### **ARTICLE IV**

##### **OBLIGATIONS OF THE PSAD BOARD**

The PSAD Board shall exercise good faith in considering the recommendations of CUE including, but not limited to, CUE's recommendations concerning policies, rules, regulations, procedures, curriculum, and budgets.

#### **ARTICLE V**

##### **COMPENSATION FOR SERVICES**

A. Compensation for Services. PSAD agrees that CUE shall be entitled to an annual fee for services provided each academic year under this Agreement, in accordance with the fee schedule set forth on the attached Exhibit A ("Management Fee"). During any academic year, CUE may irrevocably waive any or all of the Management Fee at its sole option. Payment or waiver of the Management Fee will not preclude the payment of Additional Compensation by PSAD if additional compensation is permitted or specified elsewhere in this Agreement or in any other agreements between the parties. "Additional Compensation" means additional funds paid by PSAD to CUE, or funds collected by PSAD and remitted to CUE, for services or programs conducted by CUE. Additional Compensation does not include funds to cover CUE's costs or expenses in conducting such services or programs, nor does it include the amount of funds collected directly by CUE from users of, or participants in, such services or programs. In no event will the Additional Compensation paid by PSAD to CUE in an academic year exceed 25% of the Management Fee for that same academic year.

that none of the voting power or the governing body of PSAD will be vested in CUE or its directors, members, managers, officers, shareholders and employees, and PSAD and CUE will not be related parties as defined in Treas. Reg. § 1.150-1 (b).

G. Other Revenue Sources. To supplement and enhance the state school aid payments, and improve the quality of education at the HFA:SCS, PSAD and CUE shall endeavor to obtain revenue from other sources. In this regard:

1. PSAD may solicit and receive grants, and donations consistent with the HFA:SCS's mission;
2. PSAD and/or CUE may apply for and receive grant money, in the name of CUE or PSAD;
3. To the extent permitted under the Code and the Contract, CUE may, with the prior approval of the PSAD board, charge and retain fees from (a) HFA:SCS students for extra services such as summer programs and (b) non-HFA:SCS students and others who participate in programs or services provided by CUE. To the extent any such fees are paid directly to PSAD, PSAD will promptly remit such fees to CUE. The amount of such fees remitted by PSAD to CUE, less CUE's costs and expenses in providing the additional programs or services, will be considered Additional Compensation as defined in Paragraph A of this Article; and
4. Except for fees described in paragraph 3 above, all funds received by PSAD or by CUE on PSAD's behalf from such other revenue sources shall inure to and be deemed PSAD's property.

H. Start-up Funds. CUE and the PSAD Board shall, in good faith, work together to identify and agree upon funding sources to be used to cover the HFA:SCS's start-up costs. The parties acknowledge that such costs may include expenses related to the development of a curriculum, technology system and school operations plan; recruiting, selecting and pre-service training of staff members; purchasing of instructional materials and supplies and other materials deemed necessary to initiate the Educational Program. CUE and the PSAD Board agree that start-up costs that are incurred prior to July 1, 2009 will be paid by CUE using funds from the MDE grant received by CUE and PSAD and funds raised by CUE from other sources. If other start-up funds are received by PSAD before July 1, 2009, the PSAD Board must approve the use of such funds for start-up costs. Start-up costs incurred on or after July 1, 2009 will be made a part of the budget submitted for the PSAD Board's approval.

I. Other Public School Academies. PSAD acknowledges that CUE may enter into similar management agreements with other public school academies or traditional public schools in the future. CUE shall separately account for reimbursable expenses incurred on the HFA:SCS's behalf and other public school academies, and only charge PSAD for expenses incurred on the HFA:SCS's behalf. If CUE incurs reimbursable expenses on the HFA:SCS's behalf and other public school academies which are incapable of precise allocation between such academies, the CUE shall allocate such expenses among all such academies, including the



maintained in the CUE HFA:SCS Trust Account. Only CUE agents will be authorized signatories to the CUE HFA:SCS Trust Account, and no PSAD Board agent shall be a signatory to the CUE HFA:SCS Trust Account. PSAD and CUE will coordinate efforts to have funds transferred by wire transfer or other means from the HFA:SCS Accounts to the CUE HFA:SCS Trust Account to enable CUE to draw funds from the CUE HFA:SCS Trust Account to fund school operations consistent with the approved budget as amended. PSAD's payment of the Management Fee and Additional Compensation shall be made to CUE's corporate accounts and not the CUE HFA:SCS Trust Account. The funds held on deposit by CUE in its CUE HFA:SCS Trust Account shall be PSAD property, and CUE shall make the account records for the CUE HFA:SCS Trust Account available immediately on request by PSAD.

## **ARTICLE VI**

### **PERSONNEL & TRAINING**

A. Personnel Responsibility. Subject to the Contract, CUE shall have the sole responsibility and authority to select, hire, evaluate, assign, discipline and transfer personnel, consistent with state and federal law.

B. School Administrator. Because the accountability of CUE to PSAD is an essential foundation of this partnership, and because the responsibility of the School Administrator of the HFA:SCS is critical to its success, CUE will have the authority, consistent with state law, to select and supervise the School Administrator and to hold him or her accountable for the HFA:SCS's success. The employment expectations of the School Administrator, and the duties and compensation of the School Administrator, shall be determined by CUE. The School Administrator and CUE, in turn, will have similar authority to select and hold accountable the teachers and other staff at HFA:SCS.

C. Teachers. CUE shall provide the HFA:SCS with such teachers, qualified in the grade levels and subjects required, as are required by PSAD; provided that the hiring of such teachers will be in accordance with the approved budgeted line item. The curriculum taught by such teachers will be the curriculum agreed upon by the PSAD Board and CUE, consistent with the Contract. Such teachers may, in CUE's discretion, work at the HFA:SCS on a full or part time basis. If assigned to the HFA:SCS on a part time basis, such teachers may also work at other schools operated by CUE in the future. Each teacher assigned to the HFA:SCS shall hold a valid teaching certificate issued by the state board of education under the Code, to the extent required under the Code.

D. Support Staff. CUE shall provide the HFA:SCS with such support staff, qualified in the areas required, as are required by PSAD; provided that the hiring of such support staff will be in accordance with the approved budgeted line item. Such support staff may, in CUE's discretion work at the HFA:SCS on a full or part time basis. If assigned to the HFA:SCS on a part time basis, such support staff may also work at other schools operated by CUE in the future.

E. Training. CUE shall provide training in its methods, curriculum, program, and technology, to all teaching personnel, on a regular and continuous basis. Non-instructional personnel shall receive such training as CUE determines as reasonable and necessary under the circumstances.

## **ARTICLE IX**

### **INDEMNIFICATION**

A. **Indemnification of PSAD.** CUE shall indemnify and save and hold PSAD and all of its employees (if any), officers, directors, subcontractors and agents harmless against any and all claims, demands, suits or other forms of liability that may arise out of, or by reason of, any noncompliance by CUE with any agreement, covenants, warranties or undertakings of CUE contained in or made pursuant to this Agreement; and any misrepresentation or breach of the representations and warranties of CUE contained in or made pursuant to this Agreement. In addition, CUE shall reimburse PSAD for any and all legal expenses and costs associated with the defense of any such claim, demand or suit. The indemnification requirements of this paragraph may be met by the purchase of insurance in a form and amounts acceptable to PSAD.

B. **Indemnification of CUE.** To the extent permitted under applicable law, PSAD shall indemnify and save and hold CUE and all of its employees, officers, directors, subcontractors and agents harmless against any and all claims, demands, suits or other forms of liability that may arise out of, or by reason of, any claim that this Agreement or any part thereof is in violation of law; any noncompliance by PSAD with any agreements, covenants, warranties or undertakings of PSAD contained in or made pursuant to this Agreement; and any misrepresentation or breach of the representations and warranties of PSAD contained in or made pursuant to this Agreement. In addition, PSAD shall reimburse CUE for any and all legal expenses and costs associated with the defense of any such claim, demand or suit. The indemnification requirements of this paragraph may be met by the purchase of insurance in a form and amounts acceptable to CUE.

C. **Inability to Open School.** Should either party fail to perform the obligations of this Agreement prior to the beginning of the first academic year contemplated under this Agreement, it shall hold the other harmless for the reasonable expenses incurred by that party in preparing for the opening of school operations, provided that such other party has substantially fulfilled all its obligations necessary to the performance, including but not limited to securing such waivers as may be necessary for CUE to be in operation and approving CUE's recommendation for selection of the HFA:SCS's school personnel.

D. **Indemnification for Negligence.** Each party to this Agreement shall indemnify and hold harmless the other, and their respective boards of directors, partners, officers, employees, agents and representatives, from any and all claims and liabilities which they may incur and which arise out of the negligence of the other party, its trustees, directors, officers, employees, agents, or representatives.

E. **Indemnification of Grand Valley State University.** The parties acknowledge and agree that the Grand Valley State University Board of Trustees, Grand Valley State University and its members, officers, employees, agents or representatives are deemed to be third party beneficiaries for purposes of this Agreement. As third party beneficiaries, the parties hereby promise to indemnify and hold harmless Grand Valley State University Board of Trustees, Grand Valley State University and its members, officers, employees, agents or representatives from all claims, demands, or liability, including attorney fees, and related expenses, on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other losses of any kind whatsoever and

not caused by the sole negligence of Grand Valley State University, which arise out of or are in any manner connected with Grand Valley State University Board's approval of the urban high school academy application, the University Board's consideration of or issuance of a Contract, the PSAD's preparation for and operation of a public school, or which are incurred as a result of the reliance by Grand Valley State University and its Board of Trustees members, officers, employees, agents or representatives upon information supplied by the PSAD or CUE, or which arise out of the failure of the PSAD to perform its obligations under the Contract issued to the PSAD by Grand Valley State University Board of Trustees. The parties expressly acknowledge and agree that Grand Valley State University and its Board of Trustee members, officers, employees, agents or representatives may commence legal action against either party to enforce its rights as set forth in this Agreement.

#### **ARTICLE X** **INSURANCE**

A. Insurance Coverage. PSAD shall secure and maintain the normal general liability and umbrella insurance coverage's in the amounts required by the Contract, with CUE listed as an additional insured.

B. Workers' Compensation Insurance. Each party shall maintain workers' compensation insurance as required by law, covering their respective employees.

C. Cooperation. Each party will, upon request, present evidence to the other that it maintains the requisite insurance in compliance with the provisions of this Article. Each party shall comply with any information or reporting requirements required by the other party's insurer(s), to the extent reasonably practicable.

#### **ARTICLE XI** **WARRANTIES AND REPRESENTATIONS**

Each party represents that it has the authority under law to execute, deliver and perform this Agreement and to incur the obligations provided for under this Agreement, that its actions have been duly and validly authorized, and that it will adopt any and all resolutions or expenditure approvals required for execution of this Agreement.

#### **ARTICLE XII** **ALTERNATIVE DISPUTE RESOLUTION PROCEDURE**

Any and all disputes between the parties, concerning any alleged breach of this Agreement, or arising out of or relating to the interpretation of this Agreement or the parties' performance of their respective obligations under this Agreement, shall be resolved first, by authorized representatives of PSAD and CUE. Second, if the good faith attempt of the parties to resolve the dispute is unsuccessful, the parties will seek mediation with the selected mediator approved by both parties and costs shared equally. And third, if mediation is unsuccessful or extends beyond ninety days from the parties' initial meeting to resolve the matter, by arbitration, which, at this point shall be the sole and exclusive remedy for such matters. Unless the parties agree upon a single arbitrator, the arbitration panel shall consist of three persons, one person selected by the PSAD Board, one person selected by CUE and one person selected by the other

G. Non-Waiver. The failure of a party in exercising any right, power or privilege under this Agreement shall not affect such right, power or privilege, nor shall any single or partial exercise thereof preclude any further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies of the parties under this Agreement are cumulative and not exclusive of any rights or remedies which any of them may otherwise have.

H. Governing Law. This Agreement shall be governed by and enforced in accordance with the laws of the state of Michigan.

**EXHIBIT A**  
**MANAGEMENT FEE**

<b>Year</b>	<b>Annual Management Fee</b>	<b>HFLI Services Agreement Cost Component of the Annual Management Fee</b>
2009-10	\$40,000 plus HFLI Services Agreement Cost Component	\$112,487
2010-11	\$70,000 plus HFLI Services Agreement Cost Component	\$194,750
2011-12	\$85,000 plus HFLI Services Agreement Cost Component	\$245,000
2012-13	\$100,000 plus HFLI Services Agreement Cost Component	\$320,000
2013-14	\$100,000 plus HFLI Services Agreement Cost Component	\$320,000 plus the CPI Adjustment*
2014-15	\$100,000 plus HFLI Services Agreement Cost Component	\$320,000 plus the CPI Adjustment
2015-16	\$100,000 plus HFLI Services Agreement Cost Component	\$320,000 plus the CPI Adjustment
2016-17	\$100,000 plus HFLI Services Agreement Cost Component	\$320,000 plus the CPI Adjustment
2017-18	\$100,000 plus HFLI Services Agreement Cost Component	\$320,000 plus the CPI Adjustment

\* "CPI Adjustment" means the product of \$320,000 and a fraction, the numerator of which is the CPI as of September of the school year in question less the CPI as of September 2012, and the denominator of which is the CPI as of September 2012. "CPI" means the Revised Consumer Price Index All Urban Consumers (All Items) for Detroit, Michigan (1982-1984 = 100). Notwithstanding the foregoing, in no event shall the HFLI Services Agreement Cost Component of the Annual Management Fee for any school year be more than 5% greater than the HFLI Services Agreement Cost Component of the Annual Management Fee for the immediately preceding year.

## EXHIBIT B

**Early Termination Based on Failure to Meet Educational Standards.** If (i) CUE fails to meet in any school year during the Term any one or more of the standards relating to its operation of the HFA:SCS located within the Subleased Premises set forth in A, B or C below (those performance standard(s) which CUE fails to meet in such school year are collectively referred to herein as the "Failed Standards"), (ii) TEF-SIX, LLC, within thirty (30) days after it has been determined that CUE failed to meet such Failed Standards, gives CUE written notice that the Building Sublease will terminate if CUE fails to meet in the immediately succeeding school year any of the Failed Standards, and (iii) CUE fails to meet in such subsequent school year any of the Failed Standards (the "Second Failure"), the Building Sublease shall terminate effective as of the end of the school year in which the Second Failure occurs unless TEF-SIX, LLC otherwise revokes such termination:

### A. Graduation Rate:

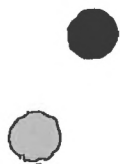
1. 80% of the freshman students entering the high school in the fall of 2009 shall graduate from the high school in June of 2013 or earlier;
2. 83.33% of the freshman students entering the high school in the fall of 2010 shall graduate from the high school in June of 2014 or earlier;
3. 86.67% of the freshman students entering the high school in the fall of 2011 shall graduate from the high school in June of 2015 or earlier;
4. 90% of the freshman students entering the high school in the fall of 2012 shall graduate from the high school in 2016 or earlier; and
5. With respect to any school year following the school year that began in the fall of 2012, either (a) 90% of the freshman students entering the high school in such school year shall graduate from the high school in four (4) years or earlier or (b) the average annual graduation rate (e.g., the percentage of students who graduate from the high school in four years or earlier) for such school year and the two immediately preceding school years is at least 90%;

### B. Re-enrollment Rate:

1. For every freshman class subsequent to the class of 2009, the enrollment rate for the following school year and each year thereafter shall be at a rate such that the graduation rates specified in this subsection A above can be mathematically obtained; and

### C. Post-Secondary Education Rate:

1. 80% of the graduates of the class of 2013 shall enroll in college or other post-secondary studies;
2. 83.3% of the graduates in the class of 2014 shall enroll in college or other post-secondary studies;



to provide all functions relating to the provision of educational services and the management and operation of the HFA:SCS as further set forth or limited herein.

C. Status of the Parties. CUE is a nonprofit corporation, organized and existing under the laws of the state of Michigan, and is not a division or a part of the PSAD. The PSAD is a nonprofit corporation, organized and existing under the laws of the state of Michigan. Pursuant to Code, the PSAD is a body corporate and governmental agency of the State of Michigan, and is not division or part of CUE. The relationship between CUE and the PSAD is based solely on the terms of this Agreement, and the terms of any other agreements between them. In performing its duties under this Agreement, it is mutually understood and agreed that CUE shall at all times be acting and performing as an independent contractor. Nothing in this Agreement is intended to create an employer/employee relationship, partnership or joint venture relationship between the parties.

## **ARTICLE II**

### **TERM**

A. Term. The term of this Agreement (the "Term") shall commence on July 1, 2009 or the corresponding commencement date of the term for HFA:SCS identified in the Contract, whichever is earlier, ("Commencement Date") and end on June 30, 2018, unless earlier terminated or further extended in accordance with this Agreement. For purposes of this Agreement, "academic year" or "school year" shall mean the fiscal year beginning July 1 and ending June 30 of the following year.

B. Renewal. This Agreement will be eligible for renewal at the time the Contract is eligible for renewal. In the event of renewal, the Management Fee will be reviewed and may be revised, subject to the written approval of PSAD and CUE.

## **ARTICLE III**

### **CUE FUNCTIONS AND RESPONSIBILITIES**

A. Responsibility. CUE shall be responsible and accountable to the PSAD Board and its Contract Administrator for the HFA:SCS's administration, operation and performance. On and after the Commencement Date, CUE shall be responsible for the HFA:SCS's day-to-day management and shall undertake such responsibilities in good faith and in the HFA:SCS's best interests. CUE is granted such power and authority on PSAD's behalf that is reasonably necessary or appropriate to perform its obligations under this Agreement, subject to the express limitations stated in this Agreement, the Code, and the Contract. Except as expressly stated herein, the descriptions of CUE's power and authority stated in this Article III are not intended to limit or restrict other powers and authority which may be necessary or appropriate for CUE to perform its obligations under this Agreement. Nothing in this Agreement shall be construed to confer upon CUE authority to act where the Code requires official action by the PSAD Board.

B. Educational Program. Consistent with the Code, the Contract and the HFA:SCS Goals (as defined in Section G of this Article III), the educational program(s) and program(s) of instruction (collectively, the "Educational Program") provided by CUE at the HFA:SCS may be adapted and modified by CUE from time to time, it being understood that an essential principle of this Educational Program is its flexibility, adaptability and capacity to change in the interest of



surcharge, to obtain the right to use the services and technology provided pursuant to the HFLI Network Services Agreement.

E. Placement of Performance. CUE reserves the right to perform functions other than instruction, such as purchasing, professional development, and administrative functions, offsite at other CUE locations, unless prohibited by the Code, the Contract, or other applicable law.

F. Student Recruitment. CUE shall be responsible for the recruitment of students subject to the PSAD's recruitment and admission policies. Students shall be selected in accordance with the procedures set forth in the Contract and in compliance with the Code and other applicable law.

G. Legal Requirements. The parties acknowledge that the Contract establishes certain educational goals ("HFA:SCS Goals") for the HFA:SCS to achieve and the methods to provide the Educational Program in a manner that will reasonably meet (i) all applicable federal, and state laws and rules and regulations applicable to the HFA:SCS ("Applicable Law"), and (ii) the requirements imposed upon PSAD under the Code and the Contract (unless such requirements are or have been waived) and (iii) the HFA:SCS Goals.

H. Due Process Hearings. CUE shall cooperate with the PSAD Board in meeting PSAD's obligations to provide students with all necessary due process hearings in conformity with Applicable Law, including matters relating to discipline, special education, confidentiality and access to records.

I. Rules & Procedures. CUE shall recommend reasonable rules, regulations and procedures applicable to the HFA:SCS and is authorized and directed to enforce such rules, regulations and procedures that are adopted by the PSAD Board.

J. School Year and School Day. In accordance with the Contract and applicable law, the school year and the school day shall be determined each year by the PSAD Board.

K. Authority. CUE shall have the authority and power necessary to undertake its responsibilities under this Agreement except in the case(s) wherein such power may not be delegated by law.

L. Compliance With Applicable Law and the Contract. In carrying out its responsibilities hereunder, CUE shall observe and comply with, and cooperate with the PSAD Board and its Contract Administrator in complying with the Contract and Applicable Law. CUE agrees to perform its duties and responsibilities under this Agreement in a manner consistent with the PSAD's obligations under the Contract issued by the Authorizer Board. The provisions of the Contract shall supersede any competing or conflicting provisions in this Agreement.

M. Building Facility. It is anticipated that the middle school and high school grades of the HFA:SCS will be located in suites 101, 102, 201, 301 and 401 in a renovated building facility, commonly known as the Argonaut Building, pursuant to a Sublease between TEF-SIX, LLC, a Michigan limited liability company ("TEF-SIX") and Argonaut Building Master Tenant, LLC, a Michigan limited liability company (the "Master Tenant") located at 465-485 West Milwaukee, Detroit Michigan 48202 (the "Building Sublease"). TEF-SIX will also sublease the

B. Reasonable Compensation. PSAD acknowledges and agrees that compensation payable to CUE under this Agreement is reasonable compensation for the services to be rendered by CUE to PSAD under this Agreement. CUE's compensation for services under this Agreement will not be based, in whole or in part, on a share of net profits from the HFA:SCS's operation.

C. Payment of Costs. CUE will be solely responsible for preparing the annual budget and budget amendments thereto for CUE's operation of the HFA:SCS and timely submit the annual budget and amendments to the PSAD Board for consideration and approval. Except as otherwise provided in this Agreement, PSAD shall fully fund the budget, as may be amended, the PSAD Board approves for CUE's operation of the HFA:SCS. In addition to the compensation described in paragraph A of this Article, CUE shall receive reimbursement from PSAD for all costs and expenses incurred and paid by CUE in providing the Educational Services, administrative services and other goods and services pursuant to this Agreement. Such costs include, but are not limited to, salaries for all personnel, curriculum materials, instructional materials, textbooks, library books, computer and other equipment, software, supplies, transportation, special education, building, maintenance, psychological services and medical services, rent and other sums payable pursuant to the Building Sublease and Gymnasium Sublease, and the cost of maintaining, repairing and operating the Subleased Premises. In paying costs and expenses on PSAD's behalf, CUE shall not charge an added fee unless such fee is approved in advance by the PSAD Board and, provided further, that such fees shall be considered Additional Compensation as defined in Paragraph A of this Article. In the event that CUE requests reimbursement under this Agreement for expenses that are not identified in the approved budget, CUE shall timely present invoices to the PSAD Board. Until the PSAD Board approves a CUE reimbursement request under this Agreement for expenses that are not identified in the approved budget, PSAD will have no obligation to pay such reimbursement.

D. Time and Priority of Payment. CUE shall receive its compensation pursuant to Paragraph A of this Article in eleven (11) installments beginning in October of each academic year and ending in August of such academic year. Such installment amounts shall be due and payable within ten (10) days of receipt by PSAD of each of its state school aid payments. Payments due and owing to CUE for invoices submitted pursuant to Paragraph C of this Article and approved by the PSAD Board shall be made by PSAD to CUE on the last day of each month, after PSAD Board approval.

E. PSAD shall satisfy its payment obligation under this Article to CUE in the following order of priority: (1) to reimburse CUE pursuant to Paragraph C of this Article for sums due and owing for previous months; (2) to reimburse CUE pursuant to Paragraph C of this Article for sums due and owing for the current month; (3) to pay CUE pursuant to Paragraph A of this Article for installment payments due and owing for previous months; and (4) to pay CUE pursuant to Paragraph A of this Article for installment payments due and owing for the current month.

F. No Related Parties or Common Control. In interpreting this Agreement and in the provision of the required services, CUE shall not have any role or relationship with PSAD that, in effect, substantially limits PSAD's ability to exercise its rights, including cancellation rights, under this Agreement. As required by PSAD's Articles of Incorporation and Bylaws, the PSAD Board may not include any director, officer or employee of a management company that contracts with PSAD. In furtherance of such restriction it is agreed between PSAD and CUE

HFA:SCS, on a pro rata basis based upon the number of students enrolled at such academies, or upon such other equitable basis as is acceptable to the parties.

J. Financial and Other Reporting. CUE shall provide PSAD with:

1. A projected annual budget prior to each academic year;
2. Detailed statements of all revenues received, from whatever source, with respect to the HFA:SCS, and detailed statements of all direct expenditures for services rendered to or on the HFA:SCS's behalf, whether incurred on-site or off-site, upon request;
3. Assistance with the annual audits that the PSAD Board must conduct in compliance with state law and regulations showing the manner in which funds are spent at the HFA:SCS;
4. Quarterly detailed reporting of revenues and expenditures in the form of: detailed budget-to-actual and balance sheet;
5. Reports on HFA:SCS operations, finances and student performance, upon request, but not less frequently than four (4) times per year; and
6. Other information on a periodic basis to enable the PSAD Board and the Contract Administrator to monitor CUE's educational performance and the efficiency of its operation of the HFA:SCS.

K. Access to Records. CUE shall keep accurate financial records pertaining to its operation of the HFA:SCS, together with all HFA:SCS financial records prepared by or in the possession of CUE, and retain all such records in accordance with the State Record Retention Policy, Bulletin 522, as amended. CUE and PSAD shall maintain the proper confidentiality of personnel, students and other records as required by law. All HFA:SCS financial records retained by CUE shall be available to either PSAD or the Authorizer Board for inspection and copying upon reasonable request. CUE shall make information concerning the operation and management of the HFA:SCS, including without limitation, the information described in Schedule 6 of the Contract, available to the PSAD as deemed necessary by the PSAD Board in order to enable the PSAD to fully comply with Section 11.16 of the Terms and Conditions of the Contract.

L. Review of Budget. The PSAD Board shall be responsible for reviewing, revising, and approving the HFA:SCS's annual budget proposed by CUE. CUE shall provide the HFA:SCS budget information and other financial reports in a format required by the PSAD Board or its Contract Administrator.

## **ARTICLE VI** **PERSONNEL & TRAINING**

A. Personnel Responsibility. Subject to the Contract, CUE shall have the sole responsibility and authority to select, hire, evaluate, assign, discipline and transfer personnel, consistent with state and federal law.

C. Expiration. Upon expiration of this Agreement at the completion of the Term and where there is no renewal, CUE shall have the right to reclaim any usable property or equipment (e.g., including but not limited to desks, computers, copying machines, fax machines, telephones) that were purchased for the HFA:SCS by CUE at its sole cost or expense. Any usable property or equipment (e.g., including but not limited to desks, computers, copying machines, fax machines, telephones) that were purchased for the HFA:SCS by CUE with PSAD funds (including any state school aid, but excluding Management Fee or Additional Compensation funds) or for which CUE received reimbursement from PSAD shall remain PSAD property.

D. Transition. In the event of termination of this Agreement for any reason by either party or upon revocation of the Contract as provided under Paragraph B before the end of this Agreement's term, CUE shall provide PSAD reasonable assistance for up to 90 days after the termination effective date to assist in the transition. All reasonable costs and expenses incurred by CUE in providing such assistance beyond the termination effective date will be promptly reimbursed by PSAD.

## **ARTICLE VIII**

### **PROPRIETARY INFORMATION**

To the extent permitted by law, PSAD agrees that CUE, or third parties from whom it may license any materials, methods, curriculum, or other content, shall own all copyright and other proprietary rights to all instructional materials, training materials, curriculum and lesson plans, and any other materials developed by CUE, its employees, agents or subcontractors, or by any individual working for or supervised by CUE, which is developed during the working hours or during time for which the individual is being paid. CUE, or its licensors, shall have the sole and exclusive right to license such materials for use by other school districts, public school academies, private schools, or customers or to modify and/or sell material to other schools and customers.

## **ARTICLE IX**

### **INDEMNIFICATION**

A. Indemnification of PSAD. CUE shall indemnify and save and hold PSAD and all of its employees (if any), officers, directors, subcontractors and agents harmless against any and all claims, demands, suits or other forms of liability that may arise out of, or by reason of, any noncompliance by CUE with any agreement, covenants, warranties or undertakings of CUE contained in or made pursuant to this Agreement; and any misrepresentation or breach of the representations and warranties of CUE contained in or made pursuant to this Agreement. In addition, CUE shall reimburse PSAD for any and all legal expenses and costs associated with the defense of any such claim, demand or suit. The indemnification requirements of this paragraph may be met by the purchase of insurance in a form and amounts acceptable to PSAD.

B. Indemnification of CUE. To the extent permitted under applicable law, PSAD shall indemnify and save and hold CUE and all of its employees, officers, directors, subcontractors and agents harmless against any and all claims, demands, suite or other forms of liability that may arise out of, or by reason of, any claim that this Agreement or any part thereof is in violation of law; any noncompliance by PSAD with any agreements, covenants, warranties

## **ARTICLE X**

### **INSURANCE**

A. **Insurance Coverage.** PSAD shall secure and maintain the normal general liability and umbrella insurance coverage's in the amounts required by the Contract, with CUE listed as an additional insured.

B. **Workers' Compensation Insurance.** Each party shall maintain workers' compensation insurance as required by law, covering their respective employees.

C. **Cooperation.** Each party will, upon request, present evidence to the other that it maintains the requisite insurance in compliance with the provisions of this Article. Each party shall comply with any information or reporting requirements required by the other party's insurer(s), to the extent reasonably practicable.

## **ARTICLE XI**

### **WARRANTIES AND REPRESENTATIONS**

Each party represents that it has the authority under law to execute, deliver and perform this Agreement and to incur the obligations provided for under this Agreement, that its actions have been duly and validly authorized, and that it will adopt any and all resolutions or expenditure approvals required for execution of this Agreement.

## **ARTICLE XII**

### **ALTERNATIVE DISPUTE RESOLUTION PROCEDURE**

Any and all disputes between the parties, concerning any alleged breach of this Agreement, or arising out of or relating to the interpretation of this Agreement or the parties' performance of their respective obligations under this Agreement, shall be resolved first, by authorized representatives of PSAD and CUE. Second, if the good faith attempt of the parties to resolve the dispute is unsuccessful, the parties will seek mediation with the selected mediator approved by both parties and costs shared equally. And third, if mediation is unsuccessful or extends beyond ninety days from the parties' initial meeting to resolve the matter, by arbitration, which, at this point shall be the sole and exclusive remedy for such matters. Unless the parties agree upon a single arbitrator, the arbitration panel shall consist of three persons, one person selected by the PSAD Board, one person selected by CUE and one person selected by the other two arbitrators. The arbitration shall be conducted in accordance with the rules of the American Arbitration Association, with such variations as the parties and arbitrator unanimously accept. A judgment on the award rendered by the arbitrators may be entered in any court having appropriate jurisdiction.

## **ARTICLE XIII**

### **MISCELLANEOUS**

A. **Sole Agreement.** This Agreement supersedes and replaces any and all prior agreements and understandings between PSAD and CUE on the subject matter hereof.

The parties have executed this Agreement as of the day and year first above written.

CREATIVE URBAN EDUCATION

By: [Signature]  
Richard Rogers  
Chairman, Board of Directors

Date: Dec 22, 2008

PUBLIC SCHOOL ACADEMIES OF  
DETROIT

By: [Signature]  
Edward Parks  
President, Board of Directors

Date: January 5, 2009

## EXHIBIT B

**Early Termination Based on Failure to Meet Educational Standards.** If (i) CUE fails to meet in any school year during the Term any one or more of the standards relating to its operation of the HFA:SCS located within the Subleased Premises set forth in A, B or C below (those performance standard(s) which CUE fails to meet in such school year are collectively referred to herein as the "Failed Standards"), (ii) TEF-SIX, LLC, within thirty (30) days after it has been determined that CUE failed to meet such Failed Standards, gives CUE written notice that the Building Sublease will terminate if CUE fails to meet in the immediately succeeding school year any of the Failed Standards, and (iii) CUE fails to meet in such subsequent school year any of the Failed Standards (the "Second Failure"), the Building Sublease shall terminate effective as of the end of the school year in which the Second Failure occurs unless TEF-SIX, LLC otherwise revokes such termination:

### A. Graduation Rate:

1. 80% of the freshman students entering the high school in the fall of 2009 shall graduate from the high school in June of 2013 or earlier;
2. 83.33% of the freshman students entering the high school in the fall of 2010 shall graduate from the high school in June of 2014 or earlier;
3. 86.67% of the freshman students entering the high school in the fall of 2011 shall graduate from the high school in June of 2015 or earlier;
4. 90% of the freshman students entering the high school in the fall of 2012 shall graduate from the high school in 2016 or earlier; and
5. With respect to any school year following the school year that began in the fall of 2012, either (a) 90% of the freshman students entering the high school in such school year shall graduate from the high school in four (4) years or earlier or (b) the average annual graduation rate (e.g., the percentage of students who graduate from the high school in four years or earlier) for such school year and the two immediately preceding school years is at least 90%;

### B. Re-enrollment Rate:

1. For every freshman class subsequent to the class of 2009, the enrollment rate for the following school year and each year thereafter shall be at a rate such that the graduation rates specified in this subsection A above can be mathematically obtained; and

### C. Post-Secondary Education Rate:

1. 80% of the graduates of the class of 2013 shall enroll in college or other post-secondary studies;
2. 83.3% of the graduates in the class of 2014 shall enroll in college or other post-secondary studies;

## INDEPENDENT CONTRACTOR AGREEMENT

This Independent Contractor Agreement ("Agreement") is made and entered into as of the 22nd day of April, 2013, by and between **Henry Ford Learning Institute**, a Michigan nonprofit corporation ("HFLI"), and the **Public School Academies of Detroit**, a Michigan nonprofit corporation ("PSAD").

The following is a recital of facts underlying this Agreement:

PSAD is organized to operate urban high school academies pursuant to the Michigan Revised School Code, Part 6C, MCL 380.521 to 380.529 being part of the Revised School Code, Public Act 451 of 1976, as amended (the "Code"). PSAD has been issued a contract, as defined in the Code (the "Contract"), by the Board of Trustees of Grand Valley State University (the "Authorizer Board") on December 14, 2007, as amended, to organize and operate one or more urban high school academies.

HFLI is a Michigan nonprofit corporation organized for educational purposes under section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

PSAD and HFLI desire to enter into an agreement, as defined by MCL 380.523c(2)(c), where by PSAD and HFLI will work together to deliver systems of educational excellence and services to PSAD and its Henry Ford Academy: School for Creative Studies, Elementary 1 ("HFA:SCS E1"), based on the vision for the PSAD's urban high school academies as described in the Contract and HFLI's school design, management principles, and the comprehensive "Educational Program" (defined below). For purposes of this Agreement, the Academy consists of HFA:SCS E1.

Therefore, the parties agree as follows:

### ARTICLE I CONTRACTING RELATIONSHIP

A. Authority. PSAD represents that (a) it is authorized by law to contract with an educational management organization for the provision of management and operational services to PSAD, and (b) PSAD has been issued the Contract from the Authorizer to organize and operate one or more urban high school academies. To the extent permitted by law, PSAD authorizes and grants to HFLI, the necessary authority and power to perform under this Agreement.

B. Services; Educational Program. The parties agree that HFLI, to the extent permitted by, and in conformity with, applicable laws, shall provide all labor, materials, and supervision necessary for the provision of comprehensive educational, administrative, management, and instructional services contemplated by this Agreement to PSAD (the "Services") as set forth below and as further set forth in Exhibit A. HFLI shall provide Services to PSAD so PSAD can meet its obligations under the Contract and all other applicable law and to carry out the educational goals, curriculum, method of pupil assessment, admissions, policy and criteria, school calendar and school day schedule, and age and grade range of pupils to be



Education, Inc. ("CUE") respecting the operation of the PSAD Henry Ford Academy; School For Creative Studies High School and Middle School ("HFA:SCS High School") urban high school academy. CUE has retained a chief executive officer ("CEO") through HFLI to serve as the CEO for the HFA:SCS School district. HFA:SCS E1 is a part of the HFA:SCS School District. HFLI shall identify and retain an Executive Director ("ED") to service the HFA:SCS E1. The ED may be the same person as the CEO. HFLI shall not retain a new ED to which the Contract Administrator or PSAD objects. HFLI shall provide thirty (30) days prior written notice to PSAD before it removes the ED, unless the reason for removal relates to a crime for which the ED has been charged or an act of moral turpitude. The parties acknowledge that the initial ED meets the requirements of section 380.1246(1)(a) of the Code. Any successor ED shall hold a valid Michigan school administrator's certificate or be enrolled in a program leading to certification as a school administrator in addition to meeting the continuing education requirements. HFLI will have the authority, consistent with all applicable laws, to supervise the ED and to hold the ED accountable for the success of HFA:SCS E1.

H. Criminal Background Checks. HFLI agrees that it shall not assign any of its employees, agents or other individuals to perform any services under this Agreement except as permitted under Sections 1230, 1230a, 1230b and related provisions of the Code pertaining to criminal background and criminal conduct checks. HFLI shall require that the results of the criminal background check are received, reviewed, and used (subject to a verification process) by the CEO acting on behalf of PSAD or the Board, only as permitted by law to confirm that the individual does not have a criminal history and to evaluate the qualifications of the individual for his/her assignment.

I. Unprofessional Conduct Checks. HFLI agrees that it will conduct unprofessional conduct checks, in accordance with MCL 380.1230b, before hiring an employee assigned to work at the HFA:SCS E1 worksite.

J. Compliance with Section 523c. On an annual basis, HFLI agrees to provide the PSAD Board, in coordination with CUE and the CEO, with the same information that a school district is required to disclose under section 18(2) of the State School Aid Act of 1979, MCL 388.1618, for the most recent school fiscal year for which the information is available. Within thirty (30) days of receipt of this information, PSAD shall make the information available on HFA:SCS website home page, in a form and manner prescribed by the Michigan Department of Education. The defined terms in section 523c of the Code, MCL 380.523c shall have the same meaning in this Agreement.

K. The Board. The Board is the governing body with oversight responsibilities over PSAD. The parties acknowledge that throughout this Agreement the term "Board" and the term "PSAD" are sometimes used interchangeably in some sections for the sole purpose of readability based on the nature and subject-matter of the article/section.

L. Availability of Funds. HFLI shall be liable to PSAD for any cost it commits PSAD to without the Board's approval in the event such cost is beyond the amount in PSAD's budget or any amendment thereto. HFLI shall only be required to perform its responsibilities under this Agreement to the extent PSAD has appropriated funds in its budget, as amended.

such services or programs. In no event will the Additional Compensation paid by PSAD to HFLI in an academic year exceed 25% of the Annual Management Fee for that same academic year.

B. Reasonable Compensation. PSAD acknowledges and agrees that compensation payable to HFLI under this Agreement is reasonable compensation for the services to be rendered by HFLI to PSAD under this Agreement

C. Payment of Costs. HFLI will be solely responsible for preparing the annual budget and budget amendments thereto for HFLI's operation of HFA:SCS E1 and timely submit the annual budget and amendments to the PSAD Board for consideration and approval. Except as otherwise provided in this Agreement, PSAD shall fully fund the budget, as may be amended, that the PSAD Board approves for HFLI's operation of HFA:SCS E1. In addition to the compensation described in Paragraph A of this Article, HFLI shall receive reimbursement from PSAD for all costs and expenses incurred and paid by HFLI in providing the Services and other goods and services pursuant to this Agreement. Such costs include, but are not limited to, salaries for all personnel, curriculum materials, instructional materials, textbooks, library books, computer and other equipment, software, supplies, transportation, special education, building, maintenance, psychological services and medical services, rent and other sums, and the cost of maintaining, repairing and operating the HFA:SCS E1 building and facility. In paying costs and expenses on PSAD's behalf, HFLI shall not charge an added fee unless such fee is approved in advance by the PSAD Board and, provided further, that such fees shall be considered Additional Compensation as defined in Paragraph A of this Article. In the event that HFLI requests reimbursement under this Agreement for expenses that are not identified in the approved budget, HFLI shall timely present invoices to the PSAD Board. Until the PSAD Board approves a HFLI reimbursement request under this Agreement for expenses that are not identified in the approved budget, PSAD will have no obligation to pay such reimbursement. The PSAD Board retains the obligation, as provided in Section 1274 of the Code, to adopt written policies governing the procurement of supplies, materials, and equipment to PSAD. Unless otherwise prohibited by law, HFLI shall directly procure all supplies, materials, and equipment provided that HFLI complies with Section 1274 of the Code, and the PSAD Board's written policies promulgated thereunder related to such items.

D. Time of Payment. HFLI shall receive its compensation pursuant to Paragraph A of this Article in eleven (11) installments beginning in October of each academic year and ending in August of such academic year. Such installment amounts shall be due and payable within ten (10) days of receipt by PSAD of each of its state school aid payments. Payments due and owing to HFLI for invoices submitted pursuant to Paragraph C of this Article and approved by the PSAD Board shall be made by PSAD to HFLI within ten (10) days of the PSAD Board's approval.

E. Other Revenue Sources. To supplement and enhance the state school aid payments, and improve the quality of education at HFA:SCS E1, PSAD and HFLI shall endeavor to obtain revenue from other sources. In this regard:

1. PSAD may solicit and receive grants, and donations consistent with HFA:SCS E1's mission;

academies, including providing requested information to CUE and/or PSAD.

4. *Coordinated Reporting.* HFLI agrees to assess, compile and provide all school information and student data required by PSAD, the Authorizer Board, the state of Michigan, the state or federal Department of Education, or any other funding or grant funding sources or administrative agencies, for the purposes of compiling singular reporting data as directed and for review by PSAD. The collection, compilation and presentment of student data shall be conducted in accordance with all Applicable Law including but not limited to the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. §1232g; 34 C.F.R. Part 99.

#### **ARTICLE V** **TERMINATION**

A. Termination by HFLI. HFLI may terminate this Agreement before the end of the Term in the event PSAD fails to remedy a material breach within the required time frames below. A material breach includes, but is not limited to, PSAD's failure to timely remit the Fee, all payroll costs, or any reimbursement due to HFLI. PSAD has ten (10) days after notice from HFLI to remedy a breach that involves the advancement of funds for all compensation required for payroll or to reach an agreement with HFLI on the payment of those funds. Termination before the end of the Term shall not relieve PSAD of any financial or other obligations to HFLI outstanding as of the date of termination. The failure by HFLI to (a) declare a breach, (b) place PSAD on notice thereof, or (c) exercise or exert any remedy available to HFLI under this Agreement or applicable laws, shall not be deemed a waiver of HFLI's right and remedies whatsoever.

B. Termination by PSAD. PSAD may terminate this Agreement before the end of the Term in the event that HFLI fails to remedy a material breach within the required time frames below. A material breach includes, but is not limited to:

1. Failure by HFLI to reasonably account for its expenditures;
2. Failure by HFLI to pay PSAD operating expenses as required under this Agreement (provided funds are available);
3. Failure by HFLI to substantially follow policies, procedures, rules, regulations, or curriculum duly adopted by the Board which are not in violation of applicable laws or this Agreement;
4. Failure by HFLI to provide the Services as required by this Agreement; and/or
5. Any action or inaction by HFLI that places the Contract in jeopardy of revocation, suspension or termination, as evidenced by written notification from the Authorizer.

Moreover, during the term of this Agreement, after its expiration, or after any notice of termination is provided by either party, HFLI shall not initiate contact with (i) the parents and legal guardians or students of PSAD directly or indirectly to promote or recruit enrollment for other schools other than PSAD; or (ii) any employee or independent contractor who currently works at or for the educational or administrative operation or management of HFA:SCS E1 to hire or retain any employee or independent contractor of a person who currently works at or for the educational or administrative operation or management of HFA:SCS E1.

Moreover, after any notice of termination is provided by either party and until the effective date of termination of this Agreement, HFLI shall undertake the following:

1. carry out its obligations under this Agreement in the ordinary course of business;
2. use its best efforts to maintain its relations and good will with suppliers, customers, landlords, creditors, employees, agents and others having business relationships with it.
3. make no material changes in administrative, operational, or management personnel, including the chief administrative officer, superintendent for HFA:SCS, principals for each of the HFA:SCS schools, or teaching staff without prior written approval of PSAD.
4. use its best efforts not to disturb HFA:SCS's relations and good will with parents, students and the educational community relating to the operation and management of HFA:SCS and otherwise comply with this Agreement;
5. comply with all legal requirements and contractual obligations assigned to it applicable to the operations of HFA:SCS E1;
6. continue in full force and effect all required insurance coverages;
7. cooperate with PSAD in identifying the governmental authorizations or other approvals including but not limited to those regarding HFA:SCS E1 facilities, required by PSAD to operate HFA:SCS E1; and
8. prepare and provide to PSAD before the end of the transition period but no sooner than thirty (30) days of the provision of notice of termination, at HFLI's own expense, a draft transition agreement which shall specifically detail transition issues and provide a timeline for addressing each issue.

F. Personal Property upon Termination or Expiration. Upon any termination or the expiration of this Agreement, PSAD may elect (a) to purchase any personal property which has been purchased or leased from a third party solely with HFLI funds, provided such purchase or lease is permitted under the purchase or lease documents relating thereto, at the fair market, depreciated value of such personal property or (b) to return same to HFLI. All personal property purchased or leased by HFLI using PSAD funds shall remain the personal property of PSAD. PSAD shall own, without restriction, all property, tangible and intangible, purchased, licensed, or acquired in any fashion by or for PSAD, or by or with PSAD funds.

demands, suits or other forms of liability that may be caused by any negligent or intentional misconduct by HFLI, its officers, directors, employees, subcontractors and agents, or by any failure to act or omission by HFLI that causes harm to PSAD arising out of this Agreement. In addition, HFLI shall reimburse PSAD for all legal costs and reasonable attorney fees associated with the defense of any such claim, demand or suit. If desired, all or part of the indemnification obligations set forth in this section may be met by the purchase of insurance by HFLI.

D. Immunities and Limitations. HFLI may assert all privileges; immunities and statutory limitations of liability in connection with any claims arising under this Agreement.

E. Mutual Duty to Cooperate. The parties acknowledge that each party has a duty and obligation to cooperate with the other party, and further that such duty to cooperate is a material part of this Agreement.

F. Indemnification of the Authorizer. The parties acknowledge and agree that the Grand Valley State University Board of Trustees, Grand Valley State University and its members, offices, employees, agents or representatives are deemed to be third party beneficiaries for purposes of this Agreement. As third party beneficiaries, the parties hereby promise to indemnify and hold harmless Grand Valley State University Board of Trustees, Grand Valley State University and its members, offices, employees, agents or representatives from all claims, demands, or liability, including attorney fees, and related expenses, on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other losses of any kind whatsoever and not caused by the sole negligence of Grand Valley State University, which arise out of or are in any manner connected with Grand Valley State University Board of Trustees' approval of PSAD's public school academy application, the University Board's consideration of or issuance of a Contract, PSAD's preparation for and operation of a public school, or which are incurred as a result of the reliance by Grand Valley State University and its Board of Trustees members, officers, employees, agents or representatives upon information supplied by PSAD or HFLI, or which arises out of the failure of PSAD to perform its obligations under the Contract. The parties expressly acknowledge and agree that Grand Valley State University and its Board of Trustee members, officers, employees, agents or representatives may commence legal action against either party to enforce its rights as set forth in this Agreement.

G. Indemnification of The Henry Ford, Ford Motor Company Fund, and The Ford Motor Company. To the extent permitted by law and without waiving any privilege or immunity, PSAD shall defend, indemnify and hold harmless THF, Ford Motor Company Fund, and The Ford Motor Company ("Indemnitees"), from and against any and all claims, damages, judgments, costs, fees and expenses (including reasonable attorney fees) awarded or assessed against Indemnitees, or incurred by Indemnitees, as a result of a third party claim against Indemnitees arising out of or related to conduct of the Academy's operations, its actions relating to this Agreement, the Academy's breach of any representation or warranty, the Academy's failure to perform under this Agreement, acts of omission or commission by the Academy, and acts or events taking place at or in connection with the Academy. Such indemnification includes, without limitation, claims by the Academy and its students, parents, teachers, employees, staff, and contractors.

materially affect HFLI's obligations under this Agreement, or changes in elected members of the HFLI Board of Directors. HFLI represents and warrants that it will provide reasonable prior written notice (and in any event be not less than five (5) days) of changes in appointed members of the HFLI Board of Directors. HFLI represents and warrants that it will give PSAD thirty (30) days prior written notice of any amendments to its bylaws that would materially affect HFLI's obligations under this Agreement.

F. Naming Rights and Intellectual Property. Except as provided below, HFLI represents and warrants that it shall not, use or apply for federal trademark status, for the names "Henry Ford Academy: School for Creative Studies, Elementary 1," "HFA:SCS E1," "HFA:SCS Elementary School," "HFA:SCS," "Henry Ford Academy: School for Creative Studies High School," "HFA:SCS HS," "HFA:SCS High School," "Henry Ford Academy: School for Creative Studies Middle School," "HFA:SCS MS," "HFA:SCS Middle School," including the use in any email domains or web addresses.

The foregoing notwithstanding, HFLI may use the names stated above, in connection with performance of the Services, in connection with any school operated under the Contract, or with the prior written approval of PSAD. The undersigned acknowledge that the trademark "HENRY FORD ACADEMY" (the "Mark") is owned by The Henry Ford, and that any use of said Mark is subject to a license agreement between The Henry Ford and HFLI, dated on or about October 5, 2007. The undersigned further acknowledge that The Henry Ford has the right to enforce its trademark rights in the Mark should HFLI fail to do so after written notice by The Henry Ford. The undersigned further acknowledge that any use of the Mark shall be subject to the terms stated in Exhibit D, and that PSAD's rights to use the names "Henry Ford," "HFA," or "Henry Ford Academy" under this Agreement, shall terminate if HFLI's rights under this Agreement are terminated or if HFLI is no longer involved with HFA:SCS E1.

#### ARTICLE X ALTERNATIVE DISPUTE RESOLUTION PROCEDURE

A. Mediation. Any and all disputes between the parties concerning any alleged breach of this Agreement or arising out of or relating to the interpretation of this Agreement or the parties' performance of their respective obligations under this Agreement shall first be discussed informally between the parties. In the event that the parties cannot resolve their dispute, the matter shall be submitted to mediation for resolution in Wayne or Oakland County. Both parties must mutually agree upon the mediator selected and shall participate in all meetings in good faith. The mediation shall be conducted in accordance with the rules of the American Arbitration Association seated in Wayne or Oakland County, Michigan, with such variations as the parties and arbitrators unanimously accept. The parties will share equally in the costs of the mediation including forum fees, expenses and charges of the mediator.

B. Arbitration. If the mediation does not result in a mutually satisfactory compromise, then the matter shall be resolved by arbitration, and such procedure shall be the sole and exclusive remedy for such matters, except for the pursuit of injunctive or equitable relief. Any dispute, difference, or disagreement arising under or related to this Agreement shall be referred to a single arbitrator, mutually agreed upon by the parties, or if no single arbitrator can be agreed upon, an arbitrator shall be selected in accordance with the rules of the American

D. Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the parties and their respective successors and assigns.

E. Entire Agreement. This Agreement is the entire agreement between the parties relating to the Services provided and the compensation to be paid for such Services. This Agreement supersedes and replaces any and all prior written or oral agreements and understandings between PSAD and HFLI on the subject matter hereof.

F. Assignment. This Agreement shall not be assigned (a) by HFLI, without prior consent of the Board, in writing, which consent shall not be unreasonably withheld; or (b) by PSAD, without the prior consent of HFLI, in writing, which consent shall not be unreasonably withheld and in a manner consistent with the Authorizer's educational management company policies.

G. Tax Exempt Financing. If at any time PSAD determines that it is in the best interests of PSAD to obtain financing that is tax-exempt pursuant to the IRS Code, then the parties agree that this Agreement shall be automatically amended for the sole and limited purpose of compliance with Revenue Procedure 97-13. Any such automatic amendment shall be as limited as practicable, and the parties shall promptly execute a written agreement reflecting such amendment, but the failure of the parties to do so shall not affect the effectiveness of the automatic amendment referenced above.

H. Amendment; Effect of Headings. This Agreement may only be amended in writing, signed by a duly authorized representative of each party and in a manner consistent with the Authorizer's educational management company policies. The underlined headings are included for convenience of the reader, and if the underlined headings are inconsistent with the other text the underlined text shall be disregarded.

I. Non-Waiver. The failure of a party in exercising any right, power or privilege under this Agreement shall not affect such right, power or privilege, nor shall any single or partial exercise thereof preclude any further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies of the parties under this Agreement are cumulative and not exclusive of any rights or remedies which any of them may otherwise have.

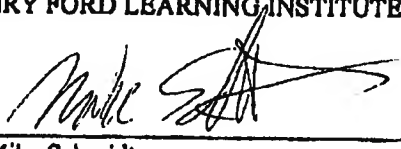
J. Governing Law. This Agreement shall be governed by and enforced in accordance with the laws of the state of Michigan.

K. No Third Party Rights. This Agreement is made for the sole benefit of PSAD and HFLI. Except as otherwise expressly provided herein, nothing in this Agreement shall create or be deemed to create a relationship between the parties, or either of them individually with any third person, third party beneficiary, fiduciary, or the Authorizer.

L. Survival of Termination. All representations, warranties, indemnities, and non-disclosures/confidentiality obligations made in this Agreement shall survive any termination or expiration of this Agreement without limitation.

The parties have executed this Independent Contractor Agreement as of the day and year first above written.

HENRY FORD LEARNING INSTITUTE

By:   
Mike Schmidt  
President, Board of Directors

Date: 4-22-13

PUBLIC SCHOOL ACADEMIES OF  
DETROIT

By:   
Edward Parks,  
President, Board of Directors

Date: 3-29-13



**EXHIBIT A  
TO  
INDEPENDENT CONTRACTOR AGREEMENT**

The purpose of this Exhibit A is to set forth and define the Services to be provided by HFLI pursuant to the Agreement.

**EDUCATIONAL MANAGEMENT SERVICES TO BE PROVIDED BY HFLI**

- A. HFLI shall implement the Educational Program (defined in Article I, Section B of the Agreement). Substantial modification of the Educational Program may only occur with the prior written consent of the Board and, if required, an amendment to the Contract which requires Authorizer approval.
- B. HFLI may perform functions other than instruction, including but not limited to purchasing, professional development and administrative functions off-site (i.e., not on PSAD property), unless prohibited by applicable laws. Student records are the property of PSAD and shall be maintained by HFLI at the corresponding PSAD HFA:SCS's sites.
- C. Although the Board shall be responsible for establishing and implementing recruitment admission policies in accordance with the Educational Program and the Contract, HFLI shall enroll students for PSAD in accordance with such policies provided that the policies are in compliance with the Contract and applicable laws.
- D. HFLI shall provide students due process hearings in compliance with all applicable laws, to an extent consistent with PSAD's own obligations as to students only (and not as to faculty).
- E. HFLI shall administer and provide the Educational Program in a manner which shall meet federal, state and local requirements, the requirements imposed under the Code and the Contract, and all lease provisions entered into by PSAD for the operation of HFA:SCS E1.
- F. In order to supplement and enhance the school aid payments received from the state of Michigan, and improve the quality of education at HFA:SCS E1, HFLI shall assist PSAD's endeavors to obtain revenue from other sources (the "Funding Sources"), and in this regard:
1. PSAD and/or HFLI may solicit grants and donations in the name of PSAD from various Funding Sources consistent with the mission of PSAD in furtherance of the Educational Program;
  2. PSAD and/or HFLI after written notice to PSAD may apply for and receive grant money in the name of PSAD from various Funding Sources in furtherance of the Educational Program;
  3. PSAD and/or HFLI with prior Board approval may apply for and receive grant money in the name of PSAD from various Funding Sources for activities outside of the Educational Program;

M. HFLI shall be responsible for all of the management, operation, administration and education at HFA:SCS E1 which includes, but is not limited to:

1. implementation and administration of the Educational Program, including administration of any and all extra-curricular and co-curricular activities and programs, and the selection and acquisition of instructional materials, equipment and supplies;
2. management of all personnel functions, including professional development for all instructional personnel and the personnel functions outlined in this Agreement;
3. aspects of the business administration (as determined as generally understood in the industry) of HFA:SCS E1 as agreed between HFLI and the Board;
4. any function necessary or expedient for the administration of HFA:SCS E1 consistent with the Educational Program, or otherwise approved by the Board.

N. Except as otherwise provided in this Agreement, HFLI shall keep all student and financial records relating to HFA:SCS E1 at the respective HFA:SCS E1 site, and the same shall be available for public inspection upon reasonable request consistent with applicable laws. All student and financial records will remain the property of PSAD.

O. HFLI shall provide the Board with:

1. a projected annual budget that complies with applicable law before June 1st of each school year, related to the Services in accordance with the Contract and the Educational Program;
2. detailed monthly statements (in a form and as requested by the Board) of all revenues received, from whatever source, with respect to PSAD, and detailed budgets with statements of all direct expenditures (with details) for the Services rendered to or on behalf of PSAD, whether incurred on-site or off-site;
3. facilitate the annual audit in compliance with applicable laws showing the manner in which funds are spent at HFA:SCS E1, however, it is acknowledged that only PSAD shall select and retain auditors and PSAD shall contract directly with any auditor of its choice, and HFLI will cooperate with the production of any and all documents necessary for the audit of HFA:SCS E1. Any such audit and audit materials shall be the property of PSAD; and
4. other information as reasonably requested by the Board to enable the Board to monitor HFLI's performance under the Agreement.

funds for the operation of HFA:SCS E1 ("HFLI HFA:SCS E1 Trust Account"), and no HFLI corporate funds shall be maintained in the HFLI HFA:SCS E1 Trust Account. Only HFLI agents will be authorized signatories to the HFLI HFA:SCS E1 Trust Account, and no PSAD Board agent shall be a signatory to the HFLI HFA:SCS E1 Trust Account. PSAD and HFLI will coordinate efforts to have funds transferred by wire transfer or other means from HFA:SCS E1 Accounts to the HFLI HFA:SCS E1 Trust Account to enable HFLI to draw funds from the HFLI HFA:SCS E1 Trust Account to fund school operations consistent with the approved budget as amended. PSAD's payment of the Annual Management Fee and Additional Compensation shall be made to HFLI's corporate accounts and not the HFLI HFA:SCS E1 Trust Account. The funds held on deposit by HFLI in its HFLI HFA:SCS E1 Trust Account shall be PSAD property, and HFLI shall make the account records for the HFLI HFA:SCS E1 Trust Account available immediately on request by PSAD.

**HUMAN RESOURCES SERVICES  
TO BE PROVIDED BY HFLI THROUGH OPTWELVE, INC.  
(d/b/a FOCUSED BUSINESS SOLUTIONS)**

S. HFLI shall recommend staffing levels, and select, evaluate, assign, discipline and transfer personnel, consistent with applicable laws, and consistent with the parameters adopted and included within the Educational Program.

T. HFLI shall provide HFA:SCS E1 with such teachers, qualified in the applicable grade levels and subjects approved by the Board and consistent with the Contract. HFLI shall ensure that the curriculum taught by HFA:SCS E1's teachers is the curriculum set forth in the Contract. Such teachers may also provide instruction at HFA:SCS E1 on a full or part time basis. If assigned to HFA:SCS E1 on a part-time basis, such teachers may also provide instruction at another institution, or other locations approved by HFLI. Each teacher assigned or retained to HFA:SCS E1 shall hold a valid teaching certificate issued by the State Board of Education under the Code, to the extent required under the Code and all other requirements as established by the Michigan Department of Education, the Authorizer, and state and federal law.

U. HFLI shall work to provide HFA:SCS E1 with support staff, qualified in the areas required. The parties anticipate that such support staff may include clerical staff, administrative assistants and director, bookkeeping staff, maintenance personnel, and the like.

V. HFLI shall pay its portion of social security, unemployment, and any other taxes required by law to be paid on behalf of its employees assigned to HFA:SCS E1 and hold HFA:SCS E1 harmless from same. Unless required by applicable laws, HFLI shall not make payments to the Michigan Public School Employees' Retirement System or any other public retirement system on behalf of its employees.

W. HFLI will be responsible for all necessary employee pension and welfare benefit plan requirements as required by law.

X. HFLI shall conduct criminal background checks and unprofessional conduct checks on its employees that are assigned to HFA:SCS E1 and all subcontractors assigned to regularly and continuously work under contract in HFA:SCS E1 as required by law, as if it were a public school academy under the Code.

**EXHIBIT C**  
**PERFORMANCE STANDARDS**

**Early Termination Based on Failure to Meet Educational Standards.** HFLI's failure to meet in any school year during the Term any one or more of the standards relating to its operation of HFA:SCS E1 set forth below, may be a basis for termination of this Agreement.

1. By 2013-2014 school year, 80% of the graduating 5<sup>th</sup> grade students enter a PSAD tenant school the following Fall; by 2014-2015 school year, 85% of the graduating 5<sup>th</sup> grade students enter a PSAD tenant school the following Fall; by 2015-2016 school year, 90% of the graduating 5<sup>th</sup> grade students enter a PSAD tenant school in the following Fall, and continue at the 90% rate thereafter;
2. An average daily attendance rate of 92.5%;
3. The HFA:SCS E1 must meet or exceed each and every the Excellent Schools Detroit criteria (including but not limited to, the student performance, site visit, and survey results) at a level of at least 90% of the allocated points for each category in the Excellent Schools Detroit annual reports card and as follows:
  - (1) By school year 2012-2013 and thereafter, meet or exceed the student performance, based on comparable standardized test scores of the Excellent Schools Detroit "Top to Bottom" score, of the Detroit Public Schools;
  - (2) By school year 2014-2015 and thereafter, meet or exceed the student performance, based on comparable standardized test scores of the Excellent Schools Detroit "Top to Bottom" score, of the state of Michigan overall average;
  - (3) By school year 2014-2015 and thereafter, meet or exceed the point score of 45 (90% of the available 50 points in this category) for the "Top to Bottom" score;
  - (4) By school year 2014-2015 and thereafter, meet or exceed the point score of 18 (90% of the available 20 points in this category) for the site visit outcomes; and
  - (5) By school year 2014-2015 and thereafter, meet or exceed the point score of 18 (90% of the available 20 points in this category) for the survey results.

reputation associated with the Mark, with The Henry Ford, or with HFLI; or (ii) in any manner that may result in liability for PSAD's debts or obligations being imposed on HFLI or THF.

F. Modifications of Model. From time to time HFLI may provide new or different versions of the Mark and make it available for PSAD's use under the same terms and conditions provided in this Agreement. PSAD will be responsible for all costs incurred in implementing such new or different Mark, to the extent it chooses to use it.

G. Mark. Neither PSAD nor HFLI will use or apply to register any trademark that incorporates or includes any part of, is confusingly similar to, or would tend to dilute the Mark, except as expressly authorized herein. PSAD acknowledges that the Mark is unique and original to HFLI and/or THF respectively, and that HFLI and/or THF are the respective owners of the Mark. PSAD will not, at any time after the Effective Date, dispute or contest, directly or indirectly, HFLI's or THF's respective exclusive ownership of the Mark. PSAD acknowledges that its use of the Mark inures to HFLI's and/or THF's benefit respectively, and that PSAD will not acquire any ownership in the Mark arising out of or related to its performance of this Agreement and any licenses granted between them. PSAD acknowledges that it has no claims or rights to the Mark, and PSAD will not, during the Term of this Agreement or at any time thereafter, assert any claim to ownership of the Mark. Anything to the contrary herein notwithstanding, use of the Mark by PSAD inures to the benefit of THF, and THF acquires the goodwill associated with PSAD's use of said Mark. The parties acknowledge that PSAD will have no right to sublicense the Mark.

## **SCHEDULE 7**


### **CONTRACT ADMINISTRATOR INFORMATION**

Pursuant to MCL 380.529, the Thompson Educational Foundation (TEF), the entity that applied for the urban high school charter contract, may undertake any of the following activities in furtherance of the Academy:

1. Participate in the recruiting, interviewing, and nominating process for the Academy board members.
2. Conduct an independent educational review, on a periodic basis, to determine whether the Academy is successful in implementing the educational goals set forth in the contract.
3. Serve as contract administrator between the Academy Board of Directors and any educational management company contracted to operate the urban high school academy.
4. Make recommendations to the University Charter Schools Office and the Academy on how to improve the Academy's operation.

The Academy shall retain all policy-making functions and other legal responsibilities that cannot be delegated by contract or otherwise with respect to its urban high school academies. As the contract administrator between the Academy and the educational management companies of the Academy, TEF may supervise the administrative operations of the urban high school academies, including but not limited to the following:

1. The selection, entering into and terminating contracts with, and monitoring of the educational management companies with respect to the charter schools.
2. The management of the Academy's real property interests.
3. Work with the educational management companies and any advisory committees for the Academy.
4. The coordination and provision of all administrative, budgetary and financial documentation for consideration, review, or approval by the Academy Board.
5. Conduct all activities incidental or necessary to the efficient administration of the Academy as permitted by the MCL 380.521 *et seq.* and Section 501(c)(3) of the Internal Revenue Code.

- 
6. TEF will report to the Academy Board of Directors on a regular basis, or as requested by the Academy, on its activities conducted pursuant to this Agreement and the results of those activities.
  7. TEF will prepare all materials required by the Academy Board of Directors to perform its duties under charter contract and the Revised School Code, MCL 380. 1 *et seq.*

The executed Contract Administration Agreement and any executed Educational Management Agreement(s) shall be incorporated into this Contract as Schedule 7.

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**AMENDED AND RESTATED  
MANAGEMENT AGREEMENT  
BETWEEN  
CREATIVE URBAN EDUCATION  
AND  
THE PUBLIC SCHOOL ACADEMIES OF DETROIT**

This Amended and Restated Educational Management Company Agreement ("Agreement") is made and entered into as of the 26<sup>th</sup> day of June, 2010 by and between Creative Urban Education, Inc., a Michigan non-profit corporation ("CUE"), and the Public School Academies of Detroit, a Michigan non-profit corporation (the "PSAD").

The following is a recital of facts underlying this Agreement:

The PSAD is organized to operate urban high school academies in Detroit pursuant to the Michigan Revised School Code, Part 6C (the "Code"). The PSAD has been issued a contract, as defined in the Code (the "Contract"), by the Board of Trustees of Grand Valley State University (the "Authorizer Board") on December 14, 2007, as amended, to organize and operate urban high school academies.

CUE is a nonprofit corporation founded with the purpose of bringing a new model of urban schools to the state of Michigan.

The PSAD and CUE desire to create an enduring educational partnership, whereby the PSAD and CUE will work together to bring educational excellence and innovation to one of the PSAD urban high school academies, The Henry Ford Academy: School for Creative Studies ("HFA:SCS"), based on CUE's school design and capacity to implement and manage a comprehensive educational program.

To pursue this purpose, the parties desire to implement an arrangement for HFA:SCS's management and operation.

PSAD and CUE are parties to the Management Agreement dated January 9, 2009. PSAD and CUE wish to amend and restate the terms of such Management Agreement in accordance with the terms below.

Therefore, it is mutually agreed as follows:

**ARTICLE I  
CONTRACTING RELATIONSHIP**

A. Authority. The PSAD is authorized by law to contract with a private entity for the provision of educational management services. The PSAD further has been granted the Contract by the Authorizer Board to organize and operate an urban high school academy. The PSAD is therefore authorized by the Authorizer Board to supervise and control such academy, and is invested with the powers set forth under the Code to carry out the educational program contemplated in this Agreement. Notwithstanding anything to the contrary in this Agreement, the PSAD's Board of Directors ("PSAD Board"), pursuant to the Code and in accordance with



the Contract, shall be accountable for the HFA:SCS's overall oversight, monitoring and supervision; strategic planning; policies; and budgeting.

B. Contract. The PSAD contracts with CUE, to the extent permitted by law, the Contract, and as otherwise provided in the Contract Administration Agreement dated August 28, 2008 between PSAD and the Thompson Educational Foundation (the "Contract Administrator"), to provide all functions relating to the provision of educational services and the management and operation of the HFA:SCS as further set forth or limited herein.

C. Status of the Parties. CUE is a nonprofit corporation, organized and existing under the laws of the state of Michigan, and is not a division or a part of the PSAD. The PSAD is a nonprofit corporation, organized and existing under the laws of the state of Michigan. Pursuant to Code, the PSAD is a body corporate and governmental agency of the State of Michigan, and is not division or part of CUE. The relationship between CUE and the PSAD is based solely on the terms of this Agreement, and the terms of any other agreements between them. In performing its duties under this Agreement, it is mutually understood and agreed that CUE shall at all times be acting and performing as an independent contractor. Nothing in this Agreement is intended to create an employer/employee relationship, partnership or joint venture relationship between the parties.

## **ARTICLE II**

### **TERM**

A. Term. The term of this Agreement (the "Term") shall commence on July 1, 2009 or the corresponding commencement date of the term for HFA:SCS identified in the Contract, whichever is earlier, ("Commencement Date") and end on June 30, 2018, unless earlier terminated or further extended in accordance with this Agreement. For purposes of this Agreement, "academic year" or "school year" shall mean the fiscal year beginning July 1 and ending June 30 of the following year.

B. Renewal. This Agreement will be eligible for renewal at the time the Contract is eligible for renewal. In the event of renewal, the Management Fee will be reviewed and may be revised, subject to the written approval of PSAD and CUE.

## **ARTICLE III**

### **CUE FUNCTIONS AND RESPONSIBILITIES**

A. Responsibility. CUE shall be responsible and accountable to the PSAD Board and its Contract Administrator for the HFA:SCS's administration, operation and performance. On and after the Commencement Date, CUE shall be responsible for the HFA:SCS's day-to-day management and shall undertake such responsibilities in good faith and in the HFA:SCS's best interests. CUE is granted such power and authority on PSAD's behalf that is reasonably necessary or appropriate to perform its obligations under this Agreement, subject to the express limitations stated in this Agreement, the Code, and the Contract. Except as expressly stated herein, the descriptions of CUE's power and authority stated in this Article III are not intended to limit or restrict other powers and authority which may be necessary or appropriate for CUE to perform its obligations under this Agreement. Nothing in this Agreement shall be construed to confer upon CUE authority to act where the Code requires official action by the PSAD Board.

B. Educational Program. Consistent with the Code, the Contract and the HFA:SCS Goals (as defined in Section G of this Article III), the educational program(s) and program(s) of instruction (collectively, the "Educational Program") provided by CUE at the HFA:SCS may be adapted and modified by CUE from time to time, it being understood that an essential principle of this Educational Program is its flexibility, adaptability and capacity to change in the interest of continuous improvement and efficiency, and that PSAD and CUE are interested in results and not inflexible prescriptions; provided that any modification must be consistent with the Contract and any substantial changes to the Educational Program may require a Contract amendment. The PSAD Board, including its Contract Administrator, shall be consulted before any substantial adaptation or modification to the Educational Program. Where the Code requires PSAD action in connection with the Educational Program, CUE shall advise the PSAD Board, including its Contract Administrator, that such action is required and shall, consistent with the terms of this Agreement, carry out the direction of the PSAD Board.

C. Specific Functions. CUE shall be responsible for the HFA:SCS's management, operation, administration and Education Program. Such functions include, but are not limited to:

1. Implementation and administration of the Educational Program, including the selection and acquisition of instructional materials, equipment and supplies, and the administration of any and all extra-and co-curricular activities and programs approved by the PSAD Board;
2. Management of all personnel functions, including professional development for the School Administrator and all instructional personnel and the personnel functions outlined in Article VI;
3. Operation of the Subleased Premises (defined hereafter) and the installation of technology integral to school design;
4. All aspects of the HFA:SCS's business administration, including but not limited to, the administration of HFA:SCS's financial and bank accounts and the transfer of funds from such accounts for the payment of costs as provided in this Agreement until CUE establishes a dedicated bank account pursuant to Article V, Section M; and
5. Any other function necessary or expedient for the HFA:SCS's administration.

D. Subcontracts. CUE reserves the right to subcontract any and all aspects of services it agrees to provide to the HFA:SCS. However, CUE shall not subcontract the management, oversight or operation of the teaching and instructional program, except as specifically permitted in this Agreement or with the PSAD Board's prior written approval. Henry Ford Learning Institute ("HFLI") will provide to CUE services related to curriculum, technology, and all other services consistent with HFLI's rights and duties under the Education Network Services Agreement to be executed by CUE and HFLI (the "HFLI Network Services Agreement"). Without limiting CUE's rights under this section, CUE may subcontract to HFLI the development, creation, and modification of curricula, technology and procedures to be recommended for HFA:SCS. The total amount charged by CUE to PSAD for such services and

technology provided pursuant to the HFLI Network Services Agreement is depicted as part of the Management Fee in Exhibit A. CUE acknowledges that PSAD has no privity of contract with HFLI and shall hold PSAD harmless from claims of HFLI regarding the HFLI Network Services Agreement.

E. Placement of Performance. CUE reserves the right to perform functions other than instruction, such as purchasing, professional development, and administrative functions, offsite at other CUE locations, unless prohibited by the Code, the Contract, or other applicable law.

F. Student Recruitment. CUE shall be responsible for the recruitment of students subject to the PSAD's recruitment and admission policies. Students shall be selected in accordance with the procedures set forth in the Contract and in compliance with the Code and other applicable law.

G. Legal Requirements. The parties acknowledge that the Contract establishes certain educational goals ("HFA:SCS Goals") for the HFA:SCS to achieve and the methods to provide the Educational Program in a manner that will reasonably meet (i) all applicable federal, and state laws and rules and regulations applicable to the HFA:SCS ("Applicable Law"), and (ii) the requirements imposed upon PSAD under the Code and the Contract (unless such requirements are or have been waived) and (iii) the HFA:SCS Goals.

H. Due Process Hearings. CUE shall cooperate with the PSAD Board in meeting PSAD's obligations to provide students with all necessary due process hearings in conformity with Applicable Law, including matters relating to discipline, special education, confidentiality and access to records.

I. Rules & Procedures. CUE shall recommend reasonable rules, regulations and procedures applicable to the HFA:SCS and is authorized and directed to enforce such rules, regulations and procedures that are adopted by the PSAD Board.

J. School Year and School Day. In accordance with the Contract and applicable law, the school year and the school day shall be determined each year by the PSAD Board.

K. Authority. CUE shall have the authority and power necessary to undertake its responsibilities under this Agreement except in the case(s) wherein such power may not be delegated by law.

L. Compliance With Applicable Law and the Contract. In carrying out its responsibilities hereunder, CUE shall observe and comply with, and cooperate with the PSAD Board and its Contract Administrator in complying with the Contract and Applicable Law. CUE agrees to perform its duties and responsibilities under this Agreement in a manner consistent with the PSAD's obligations under the Contract issued by the Authorizer Board. The provisions of the Contract shall supersede any competing or conflicting provisions in this Agreement.

M. Building Facility. It is anticipated that the middle school and high school grades of the HFA:SCS will be located in suites 101, 102, 201, 301 and 401 in a renovated building facility, commonly known as the Argonaut Building, pursuant to a Sublease between TEF-SIX, LLC, a Michigan limited liability company ("TEF-SIX") and Argonaut Building Master Tenant,

LLC, a Michigan limited liability company (the "Master Tenant") located at 465-485 West Milwaukee, Detroit Michigan 48202 (the "Building Sublease"). TEF-SIX will also sublease the gymnasium from Master Tenant to be constructed adjacent to the Argonaut Building and CUE will sublease such gymnasium from TEF-SIX (the "Gymnasium Sublease"). The building and gymnasium are collectively referred to as the "Subleased Premises." TEF-SIX is a single member limited liability company whose single member is the Contract Administrator. The Contract Administrator will provide a limited guaranty of TEF-SIX's obligations under the Building Sublease. TEF-SIX will sublease the Subleased Premises to CUE and CUE is obligated, pursuant to Article III, Section N below, to provide the Subleased Premises to the PSAD for the operation of the HFA:SCS's middle school and high school grades.

N. Right of Entry. Pursuant to Article III, Section M, of this Agreement, CUE grants to PSAD and its agents, board members, employees, invitees, and students, unconditional permission for the Term of this Agreement to enter upon and use the Subleased Premises for the operation of the HFA:SCS for all purposes contemplated by the Contract issued by the Authorizer Board, including permission to bring upon the Subleased Premises any and all materials, supplies and furniture required to operate the HFA:SCS, and to conduct educational activities on the Subleased Premises, including without limitation, any and all activities which are principal, ancillary, customary and incidental to operating a public school; provided, however, that if the Gymnasium Sublease terminates before this Agreement terminates, PSAD's right of entry to the gymnasium likewise terminates. CUE shall not charge PSAD any License or Right of Entry Fee. The operation of all school activities shall be done in accordance with all applicable laws, this Agreement, and the Contract.

#### ARTICLE IV

##### **OBLIGATIONS OF THE PSAD BOARD**

The PSAD Board shall exercise good faith in considering the recommendations of CUE including, but not limited to, CUE's recommendations concerning policies, rules, regulations, procedures, curriculum, and budgets.

#### ARTICLE V

##### **COMPENSATION FOR SERVICES**

A. Compensation for Services. PSAD agrees that CUE shall be entitled to an annual fee for services provided each academic year under this Agreement, in accordance with the fee schedule set forth on the attached Exhibit A ("Management Fee"). During any academic year, CUE may irrevocably waive any or all of the Management Fee at its sole option. Payment or waiver of the Management Fee will not preclude the payment of Additional Compensation by PSAD if additional compensation is permitted or specified elsewhere in this Agreement or in any other agreements between the parties. "Additional Compensation" means additional funds paid by PSAD to CUE, or funds collected by PSAD and remitted to CUE, for services or programs conducted by CUE. Additional Compensation does not include funds to cover CUE's costs or expenses in conducting such services or programs, nor does it include the amount of funds collected directly by CUE from users of, or participants in, such services or programs. In no event will the Additional Compensation paid by PSAD to CUE in an academic year exceed 25% of the Management Fee for that same academic year.

B. Reasonable Compensation. PSAD acknowledges and agrees that compensation payable to CUE under this Agreement is reasonable compensation for the services to be rendered by CUE to PSAD under this Agreement. CUE's compensation for services under this Agreement will not be based, in whole or in part, on a share of net profits from the HFA:SCS's operation.

C. Payment of Costs. CUE will be solely responsible for preparing the annual budget and budget amendments thereto for CUE's operation of the HFA:SCS and timely submit the annual budget and amendments to the PSAD Board for consideration and approval. Except as otherwise provided in this Agreement, PSAD shall fully fund the budget, as may be amended, the PSAD Board approves for CUE's operation of the HFA:SCS. In addition to the compensation described in paragraph A of this Article, CUE shall receive reimbursement from PSAD for all costs and expenses incurred and paid by CUE in providing the Educational Services, administrative services and other goods and services pursuant to this Agreement. Such costs include, but are not limited to, salaries for all personnel, curriculum materials, instructional materials, textbooks, library books, computer and other equipment, software, supplies, transportation, special education, building, maintenance, psychological services and medical services, rent and other sums payable pursuant to the Building Sublease and Gymnasium Sublease, and the cost of maintaining, repairing and operating the Subleased Premises. In paying costs and expenses on PSAD's behalf, CUE shall not charge an added fee unless such fee is approved in advance by the PSAD Board and, provided further, that such fees shall be considered Additional Compensation as defined in Paragraph A of this Article. In the event that CUE requests reimbursement under this Agreement for expenses that are not identified in the approved budget, CUE shall timely present invoices to the PSAD Board. Until the PSAD Board approves a CUE reimbursement request under this Agreement for expenses that are not identified in the approved budget, PSAD will have no obligation to pay such reimbursement.

D. Time of Payment. CUE shall receive its compensation pursuant to Paragraph A of this Article in eleven (11) installments beginning in October of each academic year and ending in August of such academic year. Such installment amounts shall be due and payable within ten (10) days of receipt by PSAD of each of its state school aid payments. Payments due and owing to CUE for invoices submitted pursuant to Paragraph C of this Article and approved by the PSAD Board shall be made by PSAD to CUE on the last day of each month, after PSAD Board approval.

E. Priority of Payment. PSAD shall satisfy its payment obligation under this Article to CUE in the following order of priority: (1) to reimburse CUE pursuant to Paragraph C of this Article for sums due and owing for previous months; (2) to reimburse CUE pursuant to Paragraph C of this Article for sums due and owing for the current month; (3) to pay CUE pursuant to Paragraph A of this Article for installment payments due and owing for previous months; and (4) to pay CUE pursuant to Paragraph A of this Article for installment payments due and owing for the current month.

F. No Related Parties or Common Control. In interpreting this Agreement and in the provision of the required services, CUE shall not have any role or relationship with PSAD that, in effect, substantially limits PSAD's ability to exercise its rights, including cancellation rights, under this Agreement. As required by PSAD's Articles of Incorporation and Bylaws, the PSAD Board may not include any director, officer or employee of a management company that contracts with PSAD. In furtherance of such restriction it is agreed between PSAD and CUE

that none of the voting power or the governing body of PSAD will be vested in CUE or its directors, members, managers, officers, shareholders and employees, and PSAD and CUE will not be related parties as defined in Treas. Reg. § 1.150-1 (b).

G. Other Revenue Sources. To supplement and enhance the state school aid payments, and improve the quality of education at the HFA:SCS, PSAD and CUE shall endeavor to obtain revenue from other sources. In this regard:

1. PSAD may solicit and receive grants, and donations consistent with the HFA:SCS's mission;
2. PSAD and/or CUE may apply for and receive grant money, in the name of CUE or PSAD;
3. To the extent permitted under the Code and the Contract, CUE may, with the prior approval of the PSAD board, charge and retain fees from (a) HFA:SCS students for extra services such as summer programs and (b) non-HFA:SCS students and others who participate in programs or services provided by CUE. To the extent any such fees are paid directly to PSAD, PSAD will promptly remit such fees to CUE. The amount of such fees remitted by PSAD to CUE, less CUE's costs and expenses in providing the additional programs or services, will be considered Additional Compensation as defined in Paragraph A of this Article; and
4. Except for fees described in paragraph 3 above, all funds received by PSAD or by CUE on PSAD's behalf from such other revenue sources shall inure to and be deemed PSAD's property.

H. Start-up Funds. CUE and the PSAD Board shall, in good faith, work together to identify and agree upon funding sources to be used to cover the HFA:SCS's start-up costs. The parties acknowledge that such costs may include expenses related to the development of a curriculum, technology system and school operations plan; recruiting, selecting and pre-service training of staff members; purchasing of instructional materials and supplies and other materials deemed necessary to initiate the Educational Program. CUE and the PSAD Board agree that start-up costs that are incurred prior to July 1, 2009 will be paid by CUE using funds from the MDE grant received by CUE and PSAD and funds raised by CUE from other sources. If other start-up funds are received by PSAD before July 1, 2009, the PSAD Board must approve the use of such funds for start-up costs. Start-up costs incurred on or after July 1, 2009 will be made a part of the budget submitted for the PSAD Board's approval.

I. Other Public School Academies. PSAD acknowledges that CUE may enter into similar management agreements with other public school academies or traditional public schools in the future. CUE shall separately account for reimbursable expenses incurred on the HFA:SCS's behalf and other public school academies, and only charge PSAD for expenses incurred on the HFA:SCS's behalf. If CUE incurs reimbursable expenses on the HFA:SCS's behalf and other public school academies which are incapable of precise allocation between such academies, the CUE shall allocate such expenses among all such academies, including the

HFA:SCS, on a pro rata basis based upon the number of students enrolled at such academies, or upon such other equitable basis as is acceptable to the parties.

J. Financial and Other Reporting. CUE shall provide PSAD with:

1. A projected annual budget prior to each academic year;
2. Detailed statements of all revenues received, from whatever source, with respect to the HFA:SCS, and detailed statements of all direct expenditures for services rendered to or on the HFA:SCS's behalf, whether incurred on-site or off-site, upon request;
3. Assistance with the annual audits that the PSAD Board must conduct in compliance with state law and regulations showing the manner in which funds are spent at the HFA:SCS;
4. Quarterly detailed reporting of revenues and expenditures in the form of: detailed budget-to-actual and balance sheet;
5. Reports on HFA:SCS operations, finances and student performance, upon request, but not less frequently than four (4) times per year; and
6. Other information on a periodic basis to enable the PSAD Board and the Contract Administrator to monitor CUE's educational performance and the efficiency of its operation of the HFA:SCS.

K. Access to Records. CUE shall keep accurate financial records pertaining to its operation of the HFA:SCS, together with all HFA:SCS financial records prepared by or in the possession of CUE, and retain all such records in accordance with the State Record Retention Policy, Bulletin 522, as amended. CUE and PSAD shall maintain the proper confidentiality of personnel, students and other records as required by law. All HFA:SCS financial records retained by CUE shall be available to either PSAD or the Authorizer Board for inspection and copying upon reasonable request. CUE shall make information concerning the operation and management of the HFA:SCS, including without limitation, the information described in Schedule 6 of the Contract, available to the PSAD as deemed necessary by the PSAD Board in order to enable the PSAD to fully comply with Section 11.16 of the Terms and Conditions of the Contract.

L. Review of Budget. The PSAD Board shall be responsible for reviewing, revising, and approving the HFA:SCS's annual budget proposed by CUE. CUE shall provide the HFA:SCS budget information and other financial reports in a format required by the PSAD Board or its Contract Administrator.

M. Maintenance of Financial Accounts. The PSAD Board shall maintain one or more bank accounts for the receipt of funds from the state of Michigan or otherwise for the operation of the HFA:SCS ("HFA:SCS Accounts"). The PSAD Board shall appoint authorized signatories to HFA:SCS Accounts by board resolution, and no CUE agent shall be a signatory to the HFA:SCS accounts. CUE shall maintain a bank account solely to maintain funds for the operation of HFA:SCS ("CUE HFA:SCS Trust Account"), and no CUE corporate funds shall be

maintained in the CUE HFA:SCS Trust Account. Only CUE agents will be authorized signatories to the CUE HFA:SCS Trust Account, and no PSAD Board agent shall be a signatory to the CUE HFA:SCS Trust Account. PSAD and CUE will coordinate efforts to have funds transferred by wire transfer or other means from the HFA:SCS Accounts to the CUE HFA:SCS Trust Account to enable CUE to draw funds from the CUE HFA:SCS Trust Account to fund school operations consistent with the approved budget as amended. PSAD's payment of the Management Fee and Additional Compensation shall be made to CUE's corporate accounts and not the CUE HFA:SCS Trust Account. The funds held on deposit by CUE in its CUE HFA:SCS Trust Account shall be PSAD property, and CUE shall make the account records for the CUE HFA:SCS Trust Account available immediately on request by PSAD.

## **ARTICLE VI**

### **PERSONNEL & TRAINING**

A. Personnel Responsibility. Subject to the Contract, CUE shall have the sole responsibility and authority to select, hire, evaluate, assign, discipline and transfer personnel, consistent with state and federal law.

B. School Administrator. Because the accountability of CUE to PSAD is an essential foundation of this partnership, and because the responsibility of the School Administrator of the HFA:SCS is critical to its success, CUE will have the authority, consistent with state law, to select and supervise the School Administrator and to hold him or her accountable for the HFA:SCS's success. The employment expectations of the School Administrator, and the duties and compensation of the School Administrator, shall be determined by CUE. The School Administrator and CUE, in turn, will have similar authority to select and hold accountable the teachers and other staff at HFA:SCS.

C. Teachers. CUE shall provide the HFA:SCS with such teachers, qualified in the grade levels and subjects required, as are required by PSAD; provided that the hiring of such teachers will be in accordance with the approved budgeted line item. The curriculum taught by such teachers will be the curriculum agreed upon by the PSAD Board and CUE, consistent with the Contract. Such teachers may, in CUE's discretion, work at the HFA:SCS on a full or part time basis. If assigned to the HFA:SCS on a part time basis, such teachers may also work at other schools operated by CUE in the future. Each teacher assigned to the HFA:SCS shall hold a valid teaching certificate issued by the state board of education under the Code, to the extent required under the Code.

D. Support Staff. CUE shall provide the HFA:SCS with such support staff, qualified in the areas required, as are required by PSAD; provided that the hiring of such support staff will be in accordance with the approved budgeted line item. Such support staff may, in CUE's discretion work at the HFA:SCS on a full or part time basis. If assigned to the HFA:SCS on a part time basis, such support staff may also work at other schools operated by CUE in the future.

E. Training. CUE shall provide training in its methods, curriculum, program, and technology, to all teaching personnel, on a regular and continuous basis. Non-instructional personnel shall receive such training as CUE determines as reasonable and necessary under the circumstances.



## **ARTICLE VII**

### **TERMINATION OF AGREEMENT**

A. Termination by the Parties. Either party may terminate this Agreement at any time without penalty or cause prior to the end of the Term by giving 120 days' written notice of termination to the other party. Unless otherwise agreed by the parties, the termination shall become effective on the day after the last day of the school year, not to extend beyond June 30<sup>th</sup>, in which the termination notice is given. This Agreement may also be terminated due to the failure to meet the standards set forth in Exhibit B, attached hereto. This Agreement will also be automatically terminated upon the termination of the Building Sublease. If this Agreement is terminated, CUE shall be paid amounts owed or accrued to CUE to complete school operations through the last day of the school year.

B. Termination Upon Revocation of Contract. If the Contract issued by the Authorizer Board is revoked, not reissued or terminated, this Agreement shall automatically terminate on the same date as the Contract is revoked or terminated without further action of the parties.

C. Expiration. Upon expiration of this Agreement at the completion of the Term and where there is no renewal, CUE shall have the right to reclaim any usable property or equipment (e.g., including but not limited to desks, computers, copying machines, fax machines, telephones) that were purchased for the HFA:SCS by CUE at its sole cost or expense. Any usable property or equipment (e.g., including but not limited to desks, computers, copying machines, fax machines, telephones) that were purchased for the HFA:SCS by CUE with PSAD funds (including any state school aid, but excluding Management Fee or Additional Compensation funds) or for which CUE received reimbursement from PSAD shall remain PSAD property.

D. Transition. In the event of termination of this Agreement for any reason by either party or upon revocation of the Contract as provided under Paragraph B before the end of this Agreement's term, CUE shall provide PSAD reasonable assistance for up to 90 days after the termination effective date to assist in the transition. All reasonable costs and expenses incurred by CUE in providing such assistance beyond the termination effective date will be promptly reimbursed by PSAD.

## **ARTICLE VIII**

### **PROPRIETARY INFORMATION**

To the extent permitted by law, PSAD agrees that CUE, or third parties from whom it may license any materials, methods, curriculum, or other content, shall own all copyright and other proprietary rights to all instructional materials, training materials, curriculum and lesson plans, and any other materials developed by CUE, its employees, agents or subcontractors, or by any individual working for or supervised by CUE, which is developed during the working hours or during time for which the individual is being paid. CUE, or its licensors, shall have the sole and exclusive right to license such materials for use by other school districts, public school academies, private schools, or customers or to modify and/or sell material to other schools and customers.

## **ARTICLE IX**

### **INDEMNIFICATION**

A. Indemnification of PSAD. CUE shall indemnify and save and hold PSAD and all of its employees (if any), officers, directors, subcontractors and agents harmless against any and all claims, demands, suits or other forms of liability that may arise out of, or by reason of, any noncompliance by CUE with any agreement, covenants, warranties or undertakings of CUE contained in or made pursuant to this Agreement; and any misrepresentation or breach of the representations and warranties of CUE contained in or made pursuant to this Agreement. In addition, CUE shall reimburse PSAD for any and all legal expenses and costs associated with the defense of any such claim, demand or suit. The indemnification requirements of this paragraph may be met by the purchase of insurance in a form and amounts acceptable to PSAD.

B. Indemnification of CUE. To the extent permitted under applicable law, PSAD shall indemnify and save and hold CUE and all of its employees, officers, directors, subcontractors and agents harmless against any and all claims, demands, suits or other forms of liability that may arise out of, or by reason of, any claim that this Agreement or any part thereof is in violation of law; any noncompliance by PSAD with any agreements, covenants, warranties or undertakings of PSAD contained in or made pursuant to this Agreement; and any misrepresentation or breach of the representations and warranties of PSAD contained in or made pursuant to this Agreement. In addition, PSAD shall reimburse CUE for any and all legal expenses and costs associated with the defense of any such claim, demand or suit. The indemnification requirements of this paragraph may be met by the purchase of insurance in a form and amounts acceptable to CUE.

C. Inability to Open School. Should either party fail to perform the obligations of this Agreement prior to the beginning of the first academic year contemplated under this Agreement, it shall hold the other harmless for the reasonable expenses incurred by that party in preparing for the opening of school operations, provided that such other party has substantially fulfilled all its obligations necessary to the performance, including but not limited to securing such waivers as may be necessary for CUE to be in operation and approving CUE's recommendation for selection of the HFA:SCS's school personnel.

D. Indemnification for Negligence. Each party to this Agreement shall indemnify and hold harmless the other, and their respective boards of directors, partners, officers, employees, agents and representatives, from any and all claims and liabilities which they may incur and which arise out of the negligence of the other party, its trustees, directors, officers, employees, agents, or representatives.

E. Indemnification of Grand Valley State University. The parties acknowledge and agree that the Grand Valley State University Board of Trustees, Grand Valley State University and its members, officers, employees, agents or representatives are deemed to be third party beneficiaries for purposes of this Agreement. As third party beneficiaries, the parties hereby promise to indemnify and hold harmless Grand Valley State University Board of Trustees, Grand Valley State University and its members, officers, employees, agents or representatives from all claims, demands, or liability, including attorney fees, and related expenses, on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other losses of any kind whatsoever and

not caused by the sole negligence of Grand Valley State University, which arise out of or are in any manner connected with Grand Valley State University Board's approval of the urban high school academy application, the University Board's consideration of or issuance of a Contract, the PSAD's preparation for and operation of a public school, or which are incurred as a result of the reliance by Grand Valley State University and its Board of Trustees members, officers, employees, agents or representatives upon information supplied by the PSAD or CUE, or which arise out of the failure of the PSAD to perform its obligations under the Contract issued to the PSAD by Grand Valley State University Board of Trustees. The parties expressly acknowledge and agree that Grand Valley State University and its Board of Trustee members, officers, employees, agents or representatives may commence legal action against either party to enforce its rights as set forth in this Agreement.

#### **ARTICLE X** **INSURANCE**

A. Insurance Coverage. PSAD shall secure and maintain the normal general liability and umbrella insurance coverage's in the amounts required by the Contract, with CUE listed as an additional insured.

B. Workers' Compensation Insurance. Each party shall maintain workers' compensation insurance as required by law, covering their respective employees.

C. Cooperation. Each party will, upon request, present evidence to the other that it maintains the requisite insurance in compliance with the provisions of this Article. Each party shall comply with any information or reporting requirements required by the other party's insurer(s), to the extent reasonably practicable.

#### **ARTICLE XI** **WARRANTIES AND REPRESENTATIONS**

Each party represents that it has the authority under law to execute, deliver and perform this Agreement and to incur the obligations provided for under this Agreement, that its actions have been duly and validly authorized, and that it will adopt any and all resolutions or expenditure approvals required for execution of this Agreement.

#### **ARTICLE XII** **ALTERNATIVE DISPUTE RESOLUTION PROCEDURE**

Any and all disputes between the parties, concerning any alleged breach of this Agreement, or arising out of or relating to the interpretation of this Agreement or the parties' performance of their respective obligations under this Agreement, shall be resolved first, by authorized representatives of PSAD and CUE. Second, if the good faith attempt of the parties to resolve the dispute is unsuccessful, the parties will seek mediation with the selected mediator approved by both parties and costs shared equally. And third, if mediation is unsuccessful or extends beyond ninety days from the parties' initial meeting to resolve the matter, by arbitration, which, at this point shall be the sole and exclusive remedy for such matters. Unless the parties agree upon a single arbitrator, the arbitration panel shall consist of three persons, one person selected by the PSAD Board, one person selected by CUE and one person selected by the other

two arbitrators. The arbitration shall be conducted in accordance with the rules of the American Arbitration Association, with such variations as the parties and arbitrator unanimously accept. A judgment on the award rendered by the arbitrators may be entered in any court having appropriate jurisdiction.

### **ARTICLE XIII** **MISCELLANEOUS**

A. Sole Agreement. This Agreement supersedes and replaces any and all prior agreements and understandings between PSAD and CUE on the subject matter hereof.

B. Force Majeure. Neither party shall be liable if the performance of any part or all of this Agreement is prevented, delayed, hindered or otherwise made impracticable or impossible by reason of any strike, flood, riot, fire, explosion, war or act of God.

C. Notices. All notices, demands, requests and consents under this Agreement shall be in writing, shall be delivered to each party and shall be effective when received by the parties or mailed to the parties at their respective addresses set forth below, or at such other address as may be furnished by a party to the other party:

If to CUE:

Creative Urban Education  
c/o Henry Ford Learning Institute  
P.O. Box 1935  
20900 Oakwood Blvd.  
Dearborn, MI 48121-1935

If to PSAD:

Public School Academies of Detroit Board  
600 Antoinette  
Detroit, MI 48202

With a copy to:

Public School Academies of Detroit  
Contract Administrator  
P.O. Box 6349  
Plymouth, MI 48170

D. Severability. The invalidity of any of the covenants, phrases or clauses in this Agreement shall not affect the remaining portions of this Agreement, and this Agreement shall be construed as if such invalid covenant, phrase or clause had not been contained in this Agreement.

E. Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the parties and their respective successors and assigns.

F. Entire Agreement. This Agreement is the entire agreement between the parties relating to the services provided by the parties and the compensation to be paid for such services. This Agreement supersedes any prior written or oral agreements between the parties, including the Management Agreement dated January 9, 2009.

G. Non-Waiver. The failure of a party in exercising any right, power or privilege under this Agreement shall not affect such right, power or privilege, nor shall any single or partial exercise thereof preclude any further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies of the parties under this Agreement are cumulative and not exclusive of any rights or remedies which any of them may otherwise have.

H. Governing Law. This Agreement shall be governed by and enforced in accordance with the laws of the state of Michigan.

The parties have executed this Agreement as of the day and year first above written.

CREATIVE URBAN EDUCATION

By: [Signature]  
Richard L. Rogers  
Chairman, Board of Directors

Date: 6/22/10

PUBLIC SCHOOL ACADEMIES OF  
DETROIT

By: [Signature]  
Edward Parks  
President, Board of Directors

Date: 6/26/10

**EXHIBIT A****MANAGEMENT FEE**

<b>Year</b>	<b>Annual Management Fee</b>	<b>HFLI Services Agreement Cost Component of the Annual Management Fee</b>
2009-10	\$40,000 plus HFLI Services Agreement Cost Component	\$112,487
2010-11	\$70,000 plus HFLI Services Agreement Cost Component	\$194,750
2011-12	\$85,000 plus HFLI Services Agreement Cost Component	\$245,000
2012-13	\$100,000 plus HFLI Services Agreement Cost Component	\$320,000
2013-14	\$100,000 plus HFLI Services Agreement Cost Component	\$320,000 plus the CPI Adjustment*
2014-15	\$100,000 plus HFLI Services Agreement Cost Component	\$320,000 plus the CPI Adjustment
2015-16	\$100,000 plus HFLI Services Agreement Cost Component	\$320,000 plus the CPI Adjustment
2016-17	\$100,000 plus HFLI Services Agreement Cost Component	\$320,000 plus the CPI Adjustment
2017-18	\$100,000 plus HFLI Services Agreement Cost Component	\$320,000 plus the CPI Adjustment

\* "CPI Adjustment" means the product of \$320,000 and a fraction, the numerator of which is the CPI as of September of the school year in question less the CPI as of September 2012, and the denominator of which is the CPI as of September 2012. "CPI" means the Revised Consumer Price Index All Urban Consumers (All Items) for Detroit, Michigan (1982-1984 = 100). Notwithstanding the foregoing, in no event shall the HFLI Services Agreement Cost Component of the Annual Management Fee for any school year be more than 5% greater than the HFLI Services Agreement Cost Component of the Annual Management Fee for the immediately preceding year.

## EXHIBIT B

**Early Termination Based on Failure to Meet Educational Standards.** If (i) CUE fails to meet in any school year during the Term any one or more of the standards relating to its operation of the HFA:SCS located within the Subleased Premises set forth in A, B or C below (those performance standard(s) which CUE fails to meet in such school year are collectively referred to herein as the "Failed Standards"), (ii) TEF-SIX, LLC, within thirty (30) days after it has been determined that CUE failed to meet such Failed Standards, gives CUE written notice that the Building Sublease will terminate if CUE fails to meet in the immediately succeeding school year any of the Failed Standards, and (iii) CUE fails to meet in such subsequent school year any of the Failed Standards (the "Second Failure"), the Building Sublease shall terminate effective as of the end of the school year in which the Second Failure occurs unless TEF-SIX, LLC otherwise revokes such termination:

### A. Graduation Rate:

1. 80% of the freshman students entering the high school in the fall of 2009 shall graduate from the high school in June of 2013 or earlier;
2. 83.33% of the freshman students entering the high school in the fall of 2010 shall graduate from the high school in June of 2014 or earlier;
3. 86.67% of the freshman students entering the high school in the fall of 2011 shall graduate from the high school in June of 2015 or earlier;
4. 90% of the freshman students entering the high school in the fall of 2012 shall graduate from the high school in 2016 or earlier; and
5. With respect to any school year following the school year that began in the fall of 2012, either (a) 90% of the freshman students entering the high school in such school year shall graduate from the high school in four (4) years or earlier or (b) the average annual graduation rate (e.g., the percentage of students who graduate from the high school in four years or earlier) for such school year and the two immediately preceding school years is at least 90%;

### B. Re-enrollment Rate:

1. For every freshman class subsequent to the class of 2009, the enrollment rate for the following school year and each year thereafter shall be at a rate such that the graduation rates specified in this subsection A above can be mathematically obtained; and

### C. Post-Secondary Education Rate:

1. 80% of the graduates of the class of 2013 shall enroll in college or other post-secondary studies;
2. 83.3% of the graduates in the class of 2014 shall enroll in college or other post-secondary studies;



3. 86.67% of the graduates of the class of 2015 shall enroll in college or other post-secondary studies;

4. 90% of the graduates of the class of 2016 shall enroll in college or other post-secondary studies; and

5. With respect to the graduates of each class after the class of 2016, either (a) 90% of the graduates of such class shall enroll in college or other post-secondary studies or (b) the average annual percentage of the graduates of such class and the two immediately preceding classes that are enrolled in college or other post-secondary studies is at least 90%.

If (i) the enrollment of any incoming freshman class for any school year during the term of the Building Sublease shall be less than 100 students, (ii) the average daily attendance rate during any school year is less than 90% or (iii) any senior class at the high school shall have an average ACT score of less than 18, then an action plan will be developed by CUE and upon approval by the PSAD Board, will be pursued by CUE. In no event shall the occurrence of any of the events described in (i), (ii) or (iii) of the immediately preceding sentence or the failure to develop or pursue any action plan described above provide a basis for termination under this Agreement. The PSAD Board, the Contract Administrator and CUE shall develop mutually acceptable guidelines for calculating the Graduation, Re-enrollment and Post-Secondary Education Rates.



**MANAGEMENT AGREEMENT  
BETWEEN  
CREATIVE URBAN EDUCATION  
AND  
THE PUBLIC SCHOOL ACADEMIES OF DETROIT**

This Educational Management Company Agreement ("Agreement") is made and entered into as of the 9th day of January, 2009 by and between Creative Urban Education, Inc., a Michigan non-profit corporation ("CUE"), and the Public School Academies of Detroit, a Michigan non-profit corporation (the "PSAD").

The following is a recital of facts underlying this Agreement:

The PSAD is organized to operate urban high school academies in Detroit pursuant to the Michigan Revised School Code, Part 6C (the "Code"). The PSAD has issued a contract, as defined in the Code (the "Contract"), by the Board of Trustees of Grand Valley State University (the "Authorizer Board") on December 14, 2007, as amended, to organize and operate urban high school academies.

CUE is a nonprofit corporation founded with the purpose of bringing a new model of urban schools to the state of Michigan.

The PSAD and CUE desire to create an enduring educational partnership, whereby the PSAD and CUE will work together to bring educational excellence and innovation to one of the PSAD urban high school academies, The Henry Ford Academy: School for Creative Studies ("HFA:SCS") based on CUE's school design and capacity to implement and manage a comprehensive educational program.

To pursue this purpose, the parties desire to implement an arrangement for HFA:SCS, an urban high school academy, management and operation.

Therefore, it is mutually agreed as follows:

**ARTICLE I  
CONTRACTING RELATIONSHIP**

A. Authority. The PSAD is authorized by law to contract with a private entity for the provision of educational management services. The PSAD further has been granted the Contract by the Authorizer Board to organize and operate an urban high school academy. The PSAD is therefore authorized by the Authorizer Board to supervise and control such academy, and is invested with the powers set forth under the Code to carry out the educational program contemplated in this Agreement. Notwithstanding anything to the contrary in this Agreement, the PSAD's Board of Directors ("PSAD Board"), pursuant to the Code and in accordance with the Contract, shall be accountable for the HFA:SCS's overall oversight, monitoring and supervision; strategic planning; policies; and budgeting.

B. Contract. The PSAD contracts with CUE, to the extent permitted by law, the Contract, and as otherwise provided in the Contract Administration Agreement dated August 28, 2008 between PSAD and the Thompson Educational Foundation (the "Contract Administrator"),

to provide all functions relating to the provision of educational services and the management and operation of the HFA:SCS as further set forth or limited herein.

C. Status of the Parties. CUE is a nonprofit corporation, organized and existing under the laws of the state of Michigan, and is not a division or a part of the PSAD. The PSAD is a nonprofit corporation, organized and existing under the laws of the state of Michigan. Pursuant to Code, the PSAD is a body corporate and governmental agency of the State of Michigan, and is not division or part of CUE. The relationship between CUE and the PSAD is based solely on the terms of this Agreement, and the terms of any other agreements between them. In performing its duties under this Agreement, it is mutually understood and agreed that CUE shall at all times be acting and performing as an independent contractor. Nothing in this Agreement is intended to create an employer/employee relationship, partnership or joint venture relationship between the parties.

## **ARTICLE II**

### **TERM**

A. Term. The term of this Agreement (the "Term") shall commence on July 1, 2009 or the corresponding commencement date of the term for HFA:SCS identified in the Contract, whichever is earlier, ("Commencement Date") and end on June 30, 2018, unless earlier terminated or further extended in accordance with this Agreement. For purposes of this Agreement, "academic year" or "school year" shall mean the fiscal year beginning July 1 and ending June 30 of the following year.

B. Renewal. This Agreement will be eligible for renewal at the time the Contract is eligible for renewal. In the event of renewal, the Management Fee will be reviewed and may be revised, subject to the written approval of PSAD and CUE.

## **ARTICLE III**

### **CUE FUNCTIONS AND RESPONSIBILITIES**

A. Responsibility. CUE shall be responsible and accountable to the PSAD Board and its Contract Administrator for the HFA:SCS's administration, operation and performance. On and after the Commencement Date, CUE shall be responsible for the HFA:SCS's day-to-day management and shall undertake such responsibilities in good faith and in the HFA:SCS's best interests. CUE is granted such power and authority on PSAD's behalf that is reasonably necessary or appropriate to perform its obligations under this Agreement, subject to the express limitations stated in this Agreement, the Code, and the Contract. Except as expressly stated herein, the descriptions of CUE's power and authority stated in this Article III are not intended to limit or restrict other powers and authority which may be necessary or appropriate for CUE to perform its obligations under this Agreement. Nothing in this Agreement shall be construed to confer upon CUE authority to act where the Code requires official action by the PSAD Board.

B. Educational Program. Consistent with the Code, the Contract and the HFA:SCS Goals (as defined in Section G of this Article III), the educational program(s) and program(s) of instruction (collectively, the "Educational Program") provided by CUE at the HFA:SCS may be adapted and modified by CUE from time to time, it being understood that an essential principle of this Educational Program is its flexibility, adaptability and capacity to change in the interest of

continuous improvement and efficiency, and that PSAD and CUE are interested in results and not inflexible prescriptions; provided that any modification must be consistent with the Contract and any substantial changes to the Educational Program may require a Contract amendment. The PSAD Board, including its Contract Administrator, shall be consulted before any substantial adaptation or modification to the Educational Program. Where the Code requires PSAD action in connection with the educational program, CUE shall advise the PSAD Board, including its Contract Administrator, that such action is required and shall, consistent with the terms of this Agreement, carry out the direction of the PSAD Board.

C. Specific Functions. CUE shall be responsible for the HFA:SCS's management, operation, administration and Education Program. Such functions include, but are not limited to:

1. Implementation and administration of the Educational Program, including the selection and acquisition of instructional materials, equipment and supplies, and the administration of any and all extra-and co-curricular activities and programs approved by the PSAD Board;
2. Management of all personnel functions, including professional development for the School Administrator and all instructional personnel and the personnel functions outlined in Article VI;
3. Operation of the Subleased Premises (defined hereafter) and the installation of technology integral to school design;
4. All aspects of the HFA:SCS's business administration; and
5. Any other function necessary or expedient for the HFA:SCS's administration.

D. Subcontracts. CUE reserves the right to subcontract any and all aspects of services it agrees to provide to the HFA:SCS. However, CUE shall not subcontract the management, oversight or operation of the teaching and instructional program, except as specifically permitted in this Agreement or with the PSAD Board's prior written approval. CUE also reserves the right to subcontract to Henry Ford Learning Institute ("HFLI") services related to curriculum, technology, and all other services consistent with HFLI's rights and duties under the Education Network Services Agreement to be executed by CUE and HFLI (the "HFLI Network Services Agreement"). Without limiting CUE's rights under the preceding sentence, CUE may subcontract to HFLI the development, creation, and modification of curricula, technology and procedures to be recommended for HFA:SCS. The total cost for such services and technology provided pursuant to the HFLI Network Services Agreement is the amount equal to (a) four percent, multiplied by (b) the amount of the state school aid received by PSAD for the particular students enrolled in the HFA:SCS less the amount the Authorizer Board receives for its oversight responsibilities as described in the Contract. CUE acknowledges that PSAD has no privity of contract with HFLI and shall hold PSAD harmless from claims of HFLI regarding the HFLI Network Services Agreement. The amount paid by PSAD for such services and technology provided pursuant to the HFLI Network Services Agreement is not a service fee, Management Fee (as herein defined) or Additional Compensation (as herein defined) paid to CUE, but rather payment to reimburse CUE's actual expenses, without any additional fee or

surcharge, to obtain the right to use the services and technology provided pursuant to the HFLI Network Services Agreement.

E. Placement of Performance. CUE reserves the right to perform functions other than instruction, such as purchasing, professional development, and administrative functions, offsite at other CUE locations, unless prohibited by the Code, the Contract, or other applicable law.

F. Student Recruitment. CUE shall be responsible for the recruitment of students subject to the PSAD's recruitment and admission policies. Students shall be selected in accordance with the procedures set forth in the Contract and in compliance with the Code and other applicable law.

G. Legal Requirements. The parties acknowledge that the Contract establishes certain educational goals ("HFA:SCS Goals") for the HFA:SCS to achieve and the methods to provide the Educational Program in a manner that will reasonably meet (i) all applicable federal, and state laws and rules and regulations applicable to the HFA:SCS ("Applicable Law"), and (ii) the requirements imposed upon PSAD under the Code and the Contract (unless such requirements are or have been waived) and (iii) the HFA:SCS Goals.

H. Due Process Hearings. CUE shall cooperate with the PSAD Board in meeting PSAD's obligations to provide students with all necessary due process hearings in conformity with Applicable Law, including matters relating to discipline, special education, confidentiality and access to records.

I. Rules & Procedures. CUE shall recommend reasonable rules, regulations and procedures applicable to the HFA:SCS and is authorized and directed to enforce such rules, regulations and procedures that are adopted by the PSAD Board.

J. School Year and School Day. In accordance with the Contract and applicable law, the school year and the school day shall be determined each year by the PSAD Board.

K. Authority. CUE shall have the authority and power necessary to undertake its responsibilities under this Agreement except in the case(s) wherein such power may not be delegated by law.

L. Compliance With Applicable Law and the Contract. In carrying out its responsibilities hereunder, CUE shall observe and comply with, and cooperate with the PSAD Board and its Contract Administrator in complying with the Contract and Applicable Law. CUE agrees to perform its duties and responsibilities under this Agreement in a manner consistent with the PSAD's obligations under the Contract issued by the Authorizer Board. The provisions of the Contract shall supersede any competing or conflicting provisions in this Agreement.

M. Building Facility. It is anticipated that the middle school and high school grades of the HFA:SCS will be located in suites 101, 102, 201, 301 and 401 in a renovated building facility, commonly known as the Argonaut Building, pursuant to a Sublease between TEF-SIX, LLC, a Michigan limited liability company ("TEF-SIX") and Argonaut Building Master Tenant, LLC, a Michigan limited liability company (the "Master Tenant") located at 465-485 West Milwaukee, Detroit Michigan 48202 (the "Building Sublease"). TEF-SIX will also sublease the

gymnasium from Master Tenant to be constructed adjacent to the Argonaut Building and CUE will sublease such gymnasium from TEF-SIX (the "Gymnasium Sublease"). The building and gymnasium are collectively referred to as the "Subleased Premises." TEF-SIX is a single member limited liability company whose single member is the Contract Administrator. The Contract Administrator will provide a limited guaranty of TEF-SIX's obligations under the Building Sublease. TEF-SIX will sublease the Subleased Premises to CUE and CUE is obligated, pursuant to Article III, Section N below, to provide the Subleased Premises to the PSAD for the operation of the HFA:SCS's middle school and high school grades.

N. Right of Entry. Pursuant to Article III, Section M, of this Agreement, CUE grants to PSAD and its agents, board members, employees, invitees, and students, unconditional permission for the Term of this Agreement to enter upon and use the Subleased Premises for the operation of the HFA:SCS for all purposes contemplated by the Contract issued by the Authorizer Board, including permission to bring upon the Subleased Premises any and all materials, supplies and furniture required to operate the HFA:SCS, and to conduct educational activities on the Subleased Premises, including without limitation, any and all activities which are principal, ancillary, customary and incidental to operating a public school; provided, however, that if the Gymnasium Sublease terminates before this Agreement terminates, PSAD's right of entry to the gymnasium likewise terminates. CUE shall not charge PSAD any License or Right of Entry Fee. The operation of all school activities shall be done in accordance with all applicable laws, this Agreement, and the Contract.

#### **ARTICLE IV**

##### **OBLIGATIONS OF THE PSAD BOARD**

The PSAD Board shall exercise good faith in considering the recommendations of CUE including, but not limited to, CUE's recommendations concerning policies, rules, regulations, procedures, curriculum, and budgets.

#### **ARTICLE V**

##### **COMPENSATION FOR SERVICES**

A. Compensation for Services. PSAD agrees that CUE shall be entitled to an annual fee for services provided each academic year under this Agreement, in accordance with the fee schedule set forth on the attached Exhibit A ("Management Fee"). During any academic year, CUE may irrevocably waive any or all of the Management Fee at its sole option. Payment or waiver of the Management Fee will not preclude the payment of Additional Compensation by PSAD if additional compensation is permitted or specified elsewhere in this Agreement or in any other agreements between the parties. "Additional Compensation" means additional funds paid by PSAD to CUE, or funds collected by PSAD and remitted to CUE, for services or programs conducted by CUE. Additional Compensation does not include funds to cover CUE's costs or expenses in conducting such services or programs, nor does it include the amount of funds collected directly by CUE from users of, or participants in, such services or programs. In no event will the Additional Compensation paid by PSAD to CUE in an academic year exceed 25% of the Management Fee for that same academic year.

B. Reasonable Compensation. PSAD acknowledges and agrees that compensation payable to CUE under this Agreement is reasonable compensation for the services to be rendered by CUE to PSAD under this Agreement. CUE's compensation for services under this Agreement will not be based, in whole or in part, on a share of net profits from the HFA:SCS's operation.

C. Payment of Costs. CUE will be solely responsible for preparing the annual budget and budget amendments thereto for CUE's operation of the HFA:SCS and timely submit the annual budget and amendments to the PSAD Board for consideration and approval. Except as otherwise provided in this Agreement, PSAD shall fully fund the budget, as may be amended, the PSAD Board approves for CUE's operation of the HFA:SCS. In addition to the compensation described in paragraph A of this Article, CUE shall receive reimbursement from PSAD for all costs and expenses incurred and paid by CUE in providing the Educational Services, administrative services and other goods and services pursuant to this Agreement. Such costs include, but are not limited to, salaries for all personnel, curriculum materials, instructional materials, textbooks, library books, computer and other equipment, software, supplies, transportation, special education, building, maintenance, psychological services and medical services, rent and other sums payable pursuant to the Building Sublease and Gymnasium Sublease, and the cost of maintaining, repairing and operating the Subleased Premises. In paying costs and expenses on PSAD's behalf, CUE shall not charge an added fee unless such fee is approved in advance by the PSAD Board and, provided further, that such fees shall be considered Additional Compensation as defined in Paragraph A of this Article. In the event that CUE requests reimbursement under this Agreement for expenses that are not identified in the approved budget, CUE shall timely present invoices to the PSAD Board. Until the PSAD Board approves a CUE reimbursement request under this Agreement for expenses that are not identified in the approved budget, PSAD will have no obligation to pay such reimbursement.

D. Time and Priority of Payment. CUE shall receive its compensation pursuant to Paragraph A of this Article in eleven (11) installments beginning in October of each academic year and ending in August of such academic year. Such installment amounts shall be due and payable within ten (10) days of receipt by PSAD of each of its state school aid payments. Payments due and owing to CUE for invoices submitted pursuant to Paragraph C of this Article and approved by the PSAD Board shall be made by PSAD to CUE on the last day of each month, after PSAD Board approval.

E. PSAD shall satisfy its payment obligation under this Article to CUE in the following order of priority: (1) to reimburse CUE pursuant to Paragraph C of this Article for sums due and owing for previous months; (2) to reimburse CUE pursuant to Paragraph C of this Article for sums due and owing for the current month; (3) to pay CUE pursuant to Paragraph A of this Article for installment payments due and owing for previous months; and (4) to pay CUE pursuant to Paragraph A of this Article for installment payments due and owing for the current month.

F. No Related Parties or Common Control. In interpreting this Agreement and in the provision of the required services, CUE shall not have any role or relationship with PSAD that, in effect, substantially limits PSAD's ability to exercise its rights, including cancellation rights, under this Agreement. As required by PSAD's Articles of Incorporation and Bylaws, the PSAD Board may not include any director, officer or employee of a management company that contracts with PSAD. In furtherance of such restriction it is agreed between PSAD and CUE



that none of the voting power or the governing body of PSAD will be vested in CUE or its directors, members, managers, officers, shareholders and employees, and PSAD and CUE will not be related parties as defined in Treas. Reg. § 1.150-1 (b).

G. Other Revenue Sources. To supplement and enhance the state school aid payments, and improve the quality of education at the HFA:SCS, PSAD and CUE shall endeavor to obtain revenue from other sources. In this regard:

1. PSAD may solicit and receive grants, and donations consistent with the HFA:SCS's mission;
2. PSAD and/or CUE may apply for and receive grant money, in the name of CUE or PSAD;
3. To the extent permitted under the Code and the Contract, CUE may, with the prior approval of the PSAD board, charge and retain fees from (a) HFA:SCS students for extra services such as summer programs and (b) non-HFA:SCS students and others who participate in programs or services provided by CUE. To the extent any such fees are paid directly to PSAD, PSAD will promptly remit such fees to CUE. The amount of such fees remitted by PSAD to CUE, less CUE's costs and expenses in providing the additional programs or services, will be considered Additional Compensation as defined in Paragraph A of this Article; and
4. Except for fees described in paragraph 3 above, all funds received by PSAD or by CUE on PSAD's behalf from such other revenue sources shall inure to and be deemed PSAD's property.

H. Start-up Funds. CUE and the PSAD Board shall, in good faith, work together to identify and agree upon funding sources to be used to cover the HFA:SCS's start-up costs. The parties acknowledge that such costs may include expenses related to the development of a curriculum, technology system and school operations plan; recruiting, selecting and pre-service training of staff members; purchasing of instructional materials and supplies and other materials deemed necessary to initiate the Educational Program. CUE and the PSAD Board agree that start-up costs that are incurred prior to July 1, 2009 will be paid by CUE using funds from the MDE grant received by CUE and PSAD and funds raised by CUE from other sources. If other start-up funds are received by PSAD before July 1, 2009, the PSAD Board must approve the use of such funds for start-up costs. Start-up costs incurred on or after July 1, 2009 will be made a part of the budget submitted for the PSAD Board's approval.

I. Other Public School Academies. PSAD acknowledges that CUE may enter into similar management agreements with other public school academies or traditional public schools in the future. CUE shall separately account for reimbursable expenses incurred on the HFA:SCS's behalf and other public school academies, and only charge PSAD for expenses incurred on the HFA:SCS's behalf. If CUE incurs reimbursable expenses on the HFA:SCS's behalf and other public school academies which are incapable of precise allocation between such academies, the CUE shall allocate such expenses among all such academies, including the

HFA:SCS, on a pro rata basis based upon the number of students enrolled at such academies, or upon such other equitable basis as is acceptable to the parties.

J. Financial and Other Reporting. CUE shall provide PSAD with:

1. A projected annual budget prior to each academic year;
2. Detailed statements of all revenues received, from whatever source, with respect to the HFA:SCS, and detailed statements of all direct expenditures for services rendered to or on the HFA:SCS's behalf, whether incurred on-site or off-site, upon request;
3. Assistance with the annual audits that the PSAD Board must conduct in compliance with state law and regulations showing the manner in which funds are spent at the HFA:SCS;
4. Quarterly detailed reporting of revenues and expenditures in the form of: detailed budget-to-actual and balance sheet;
5. Reports on HFA:SCS operations, finances and student performance, upon request, but not less frequently than four (4) times per year; and
6. Other information on a periodic basis to enable the PSAD Board and the Contract Administrator to monitor CUE's educational performance and the efficiency of its operation of the HFA:SCS.

K. Access to Records. CUE shall keep accurate financial records pertaining to its operation of the HFA:SCS, together with all HFA:SCS financial records prepared by or in the possession of CUE, and retain all such records in accordance with the State Record Retention Policy, Bulletin 522, as amended. CUE and PSAD shall maintain the proper confidentiality of personnel, students and other records as required by law. All HFA:SCS financial records retained by CUE shall be available to either PSAD or the Authorizer Board for inspection and copying upon reasonable request. CUE shall make information concerning the operation and management of the HFA:SCS, including without limitation, the information described in Schedule 6 of the Contract, available to the PSAD as deemed necessary by the PSAD Board in order to enable the PSAD to fully comply with Section 11.16 of the Terms and Conditions of the Contract.

L. Review of Budget. The PSAD Board shall be responsible for reviewing, revising, and approving the HFA:SCS's annual budget proposed by CUE. CUE shall provide the HFA:SCS budget information and other financial reports in a format required by the PSAD Board or its Contract Administrator.

## **ARTICLE VI** **PERSONNEL & TRAINING**

A. Personnel Responsibility. Subject to the Contract, CUE shall have the sole responsibility and authority to select, hire, evaluate, assign, discipline and transfer personnel, consistent with state and federal law.

B. School Administrator. Because the accountability of CUE to PSAD is an essential foundation of this partnership, and because the responsibility of the School Administrator of the HFA:SCS is critical to its success, CUE will have the authority, consistent with state law, to select and supervise the School Administrator and to hold him or her accountable for the HFA:SCS's success. The employment expectations of the School Administrator, and the duties and compensation of the School Administrator, shall be determined by CUE. The School Administrator and CUE, in turn, will have similar authority to select and hold accountable the teachers and other staff at HFA:SCS.

C. Teachers. CUE shall provide the HFA:SCS with such teachers, qualified in the grade levels and subjects required, as are required by PSAD; provided that the hiring of such teachers will be in accordance with the approved budgeted line item. The curriculum taught by such teachers will be the curriculum agreed upon by the PSAD Board and CUE, consistent with the Contract. Such teachers may, in CUE's discretion, work at the HFA:SCS on a full or part time basis. If assigned to the HFA:SCS on a part time basis, such teachers may also work at other schools operated by CUE in the future. Each teacher assigned to the HFA:SCS shall hold a valid teaching certificate issued by the state board of education under the Code, to the extent required under the Code.

D. Support Staff. CUE shall provide the HFA:SCS with such support staff, qualified in the areas required, as are required by PSAD; provided that the hiring of such support staff will be in accordance with the approved budgeted line item. Such support staff may, in CUE's discretion work at the HFA:SCS on a full or part time basis. If assigned to the HFA:SCS on a part time basis, such support staff may also work at other schools operated by CUE in the future.

E. Training. CUE shall provide training in its methods, curriculum, program, and technology, to all teaching personnel, on a regular and continuous basis. Non-instructional personnel shall receive such training as CUE determines as reasonable and necessary under the circumstances.

## **ARTICLE VII**

### **TERMINATION OF AGREEMENT**

A. Termination by the Parties. Either party may terminate this Agreement at any time without penalty or cause prior to the end of the Term by giving 120 days' written notice of termination to the other party. Unless otherwise agreed by the parties, the termination shall become effective on the day after the last day of the school year, not to extend beyond June 30<sup>th</sup>, in which the termination notice is given. This Agreement may also be terminated due to the failure to meet the standards set forth in Exhibit B, attached hereto. This Agreement will also be automatically terminated upon the termination of the Building Sublease. If this Agreement is terminated, CUE shall be paid amounts owed or accrued to CUE to complete school operations through the last day of the school year.

B. Termination Upon Revocation of Contract. If the Contract issued by the Authorizer Board is revoked, not reissued or terminated, this Agreement shall automatically terminate on the same date as the Contract is revoked or terminated without further action of the parties.

C. Expiration. Upon expiration of this Agreement at the completion of the Term and where there is no renewal, CUE shall have the right to reclaim any usable property or equipment (e.g., including but not limited to desks, computers, copying machines, fax machines, telephones) that were purchased for the HFA:SCS by CUE at its sole cost or expense. Any usable property or equipment (e.g., including but not limited to desks, computers, copying machines, fax machines, telephones) that were purchased for the HFA:SCS by CUE with PSAD funds (including any state school aid, but excluding Management Fee or Additional Compensation funds) or for which CUE received reimbursement from PSAD shall remain PSAD property.

D. Transition. In the event of termination of this Agreement for any reason by either party or upon revocation of the Contract as provided under Paragraph B before the end of this Agreement's term, CUE shall provide PSAD reasonable assistance for up to 90 days after the termination effective date to assist in the transition. All reasonable costs and expenses incurred by CUE in providing such assistance beyond the termination effective date will be promptly reimbursed by PSAD.

## **ARTICLE VIII** **PROPRIETARY INFORMATION**

To the extent permitted by law, PSAD agrees that CUE, or third parties from whom it may license any materials, methods, curriculum, or other content, shall own all copyright and other proprietary rights to all instructional materials, training materials, curriculum and lesson plans, and any other materials developed by CUE, its employees, agents or subcontractors, or by any individual working for or supervised by CUE, which is developed during the working hours or during time for which the individual is being paid. CUE, or its licensors, shall have the sole and exclusive right to license such materials for use by other school districts, public school academies, private schools, or customers or to modify and/or sell material to other schools and customers.

## **ARTICLE IX** **INDEMNIFICATION**

A. Indemnification of PSAD. CUE shall indemnify and save and hold PSAD and all of its employees (if any), officers, directors, subcontractors and agents harmless against any and all claims, demands, suits or other forms of liability that may arise out of, or by reason of, any noncompliance by CUE with any agreement, covenants, warranties or undertakings of CUE contained in or made pursuant to this Agreement; and any misrepresentation or breach of the representations and warranties of CUE contained in or made pursuant to this Agreement. In addition, CUE shall reimburse PSAD for any and all legal expenses and costs associated with the defense of any such claim, demand or suit. The indemnification requirements of this paragraph may be met by the purchase of insurance in a form and amounts acceptable to PSAD.

B. Indemnification of CUE. To the extent permitted under applicable law, PSAD shall indemnify and save and hold CUE and all of its employees, officers, directors, subcontractors and agents harmless against any and all claims, demands, suite or other forms of liability that may arise out of, or by reason of, any claim that this Agreement or any part thereof is in violation of law; any noncompliance by PSAD with any agreements, covenants, warranties

or undertakings of PSAD contained in or made pursuant to this Agreement; and any misrepresentation or breach of the representations and warranties of PSAD contained in or made pursuant to this Agreement. In addition, PSAD shall reimburse CUE for any and all legal expenses and costs associated with the defense of any such claim, demand or suit. The indemnification requirements of this paragraph may be met by the purchase of insurance in a form and amounts acceptable to CUE.

C. Inability to Open School. Should either party fail to perform the obligations of this Agreement prior to the beginning of the first academic year contemplated under this Agreement, it shall hold the other harmless for the reasonable expenses incurred by that party in preparing for the opening of school operations, provided that such other party has substantially fulfilled all its obligations necessary to the performance, including but not limited to securing such waivers as may be necessary for CUE to be in operation and approving CUE's recommendation for selection of the HFA:SCS's school personnel.

D. Indemnification for Negligence. Each party to this Agreement shall indemnify and hold harmless the other, and their respective boards of directors, partners, officers, employees, agents and representatives, from any and all claims and liabilities which they may incur and which arise out of the negligence of the other party, its trustees, directors, officers, employees, agents, or representatives.

E. Indemnification of Grand Valley State University. The parties acknowledge and agree that the Grand Valley State University Board of Trustees, Grand Valley State University and its members, officers, employees, agents or representatives are deemed to be third party beneficiaries for purposes of this Agreement. As third party beneficiaries, the parties hereby promise to indemnify and hold harmless Grand Valley State University Board of Trustees, Grand Valley State University and its members, officers, employees, agents or representatives from all claims, demands, or liability, including attorney fees, and related expenses, on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other losses of any kind whatsoever and not caused by the sole negligence of Grand Valley State University, which arise out of or are in any manner connected with Grand Valley State University Board's approval of the urban high school academy application, the University Board's consideration of or issuance of a Contract, the PSAD's preparation for and operation of a public school, or which are incurred as a result of the reliance by Grand Valley State University and its Board of Trustees members, officers, employees, agents or representatives upon information supplied by the PSAD or CUE, or which arise out of the failure of the PSAD to perform its obligations under the Contract issued to the PSAD by Grand Valley State University Board of Trustees. The parties expressly acknowledge and agree that Grand Valley State University and its Board of Trustee members, officers, employees, agents or representatives may commence legal action against either party to enforce its rights as set forth in this Agreement.

## **ARTICLE X** **INSURANCE**

A. Insurance Coverage. PSAD shall secure and maintain the normal general liability and umbrella insurance coverage's in the amounts required by the Contract, with CUE listed as an additional insured.

B. Workers' Compensation Insurance. Each party shall maintain workers' compensation insurance as required by law, covering their respective employees.

C. Cooperation. Each party will, upon request, present evidence to the other that it maintains the requisite insurance in compliance with the provisions of this Article. Each party shall comply with any information or reporting requirements required by the other party's insurer(s), to the extent reasonably practicable.

## **ARTICLE XI** **WARRANTIES AND REPRESENTATIONS**

Each party represents that it has the authority under law to execute, deliver and perform this Agreement and to incur the obligations provided for under this Agreement, that its actions have been duly and validly authorized, and that it will adopt any and all resolutions or expenditure approvals required for execution of this Agreement.

## **ARTICLE XII** **ALTERNATIVE DISPUTE RESOLUTION PROCEDURE**

Any and all disputes between the parties, concerning any alleged breach of this Agreement, or arising out of or relating to the interpretation of this Agreement or the parties' performance of their respective obligations under this Agreement, shall be resolved first, by authorized representatives of PSAD and CUE. Second, if the good faith attempt of the parties to resolve the dispute is unsuccessful, the parties will seek mediation with the selected mediator approved by both parties and costs shared equally. And third, if mediation is unsuccessful or extends beyond ninety days from the parties' initial meeting to resolve the matter, by arbitration, which, at this point shall be the sole and exclusive remedy for such matters. Unless the parties agree upon a single arbitrator, the arbitration panel shall consist of three persons, one person selected by the PSAD Board, one person selected by CUE and one person selected by the other two arbitrators. The arbitration shall be conducted in accordance with the rules of the American Arbitration Association, with such variations as the parties and arbitrator unanimously accept. A judgment on the award rendered by the arbitrators may be entered in any court having appropriate jurisdiction.

## **ARTICLE XIII** **MISCELLANEOUS**

A. Sole Agreement. This Agreement supersedes and replaces any and all prior agreements and understandings between PSAD and CUE on the subject matter hereof.

B. Force Majeure. Neither party shall be liable if the performance of any part or all of this Agreement is prevented, delayed, hindered or otherwise made impracticable or impossible by reason of any strike, flood, riot, fire, explosion, war or act of God.

C. Notices. All notices, demands, requests and consents under this Agreement shall be in writing, shall be delivered to each party and shall be effective when received by the parties or mailed to the parties at their respective addresses set forth below, or at such other address as may be furnished by a party to the other party:

If to CUE:

Creative Urban Education  
c/o Henry Ford Learning Institute  
P.O. Box 1935  
20900 Oakwood Blvd.  
Dearborn, MI 48121-1935

If to PSAD:

Public School Academies of Detroit Board  
600 Antoinette  
Detroit, MI 48202

With a copy to:

Public School Academies of Detroit  
Contract Administrator  
P.O. Box 6349  
Plymouth, MI 48170

D. Severability. The invalidity of any of the covenants, phrases or clauses in this Agreement shall not affect the remaining portions of this Agreement, and this Agreement shall be construed as if such invalid covenant, phrase or clause had not been contained in this Agreement.

E. Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the parties and their respective successors and assigns.

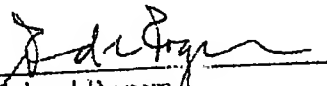
F. Entire Agreement. This Agreement is the entire agreement between the parties relating to the services provided by the parties and the compensation to be paid for such services.

G. Non-Waiver. The failure of a party in exercising any right, power or privilege under this Agreement shall not affect such right, power or privilege, nor shall any single or partial exercise thereof preclude any further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies of the parties under this Agreement are cumulative and not exclusive of any rights or remedies which any of them may otherwise have.

H. Governing Law. This Agreement shall be governed by and enforced in accordance with the laws of the state of Michigan.

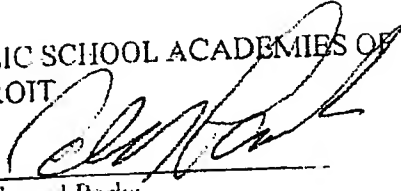
The parties have executed this Agreement as of the day and year first above written.

CREATIVE URBAN EDUCATION

By:   
Richard Rogers  
Chairman, Board of Directors

Date: Dec 22, 2008

PUBLIC SCHOOL ACADEMIES OF  
DETROIT

By:   
Edward Parks  
President, Board of Directors

Date: January 5, 2009



**EXHIBIT A**  
**MANAGEMENT FEE**

<b>Year</b>	<b>Annual Management Fee</b>	<b>Monthly installments (11)</b>
Year 1	\$40,000	\$3,636.36
Year 2	\$70,000	\$6,363.64
Year 3	\$85,000	\$7,727.27
Year 4	\$100,000	\$9,090.91
Year 5	\$100,000	\$9,090.91
Year 6	\$100,000	\$9,090.91
Year 7	\$100,000	\$9,090.91
Year 8	\$100,000	\$9,090.91
Year 9	\$100,000	\$9,090.91
<b>Total</b>	<b>\$795,000</b>	

## EXHIBIT B

**Early Termination Based on Failure to Meet Educational Standards.** If (i) CUE fails to meet in any school year during the Term any one or more of the standards relating to its operation of the HFA:SCS located within the Subleased Premises set forth in A, B or C below (those performance standard(s) which CUE fails to meet in such school year are collectively referred to herein as the "Failed Standards"), (ii) TEF-SIX, LLC, within thirty (30) days after it has been determined that CUE failed to meet such Failed Standards, gives CUE written notice that the Building Sublease will terminate if CUE fails to meet in the immediately succeeding school year any of the Failed Standards, and (iii) CUE fails to meet in such subsequent school year any of the Failed Standards (the "Second Failure"), the Building Sublease shall terminate effective as of the end of the school year in which the Second Failure occurs unless TEF-SIX, LLC otherwise revokes such termination:

### A. Graduation Rate:

1. 80% of the freshman students entering the high school in the fall of 2009 shall graduate from the high school in June of 2013 or earlier;
2. 83.33% of the freshman students entering the high school in the fall of 2010 shall graduate from the high school in June of 2014 or earlier;
3. 86.67% of the freshman students entering the high school in the fall of 2011 shall graduate from the high school in June of 2015 or earlier;
4. 90% of the freshman students entering the high school in the fall of 2012 shall graduate from the high school in 2016 or earlier; and
5. With respect to any school year following the school year that began in the fall of 2012, either (a) 90% of the freshman students entering the high school in such school year shall graduate from the high school in four (4) years or earlier or (b) the average annual graduation rate (e.g., the percentage of students who graduate from the high school in four years or earlier) for such school year and the two immediately preceding school years is at least 90%;

### B. Re-enrollment Rate:

1. For every freshman class subsequent to the class of 2009, the enrollment rate for the following school year and each year thereafter shall be at a rate such that the graduation rates specified in this subsection A above can be mathematically obtained; and

### C. Post-Secondary Education Rate:

1. 80% of the graduates of the class of 2013 shall enroll in college or other post-secondary studies;
2. 83.3% of the graduates in the class of 2014 shall enroll in college or other post-secondary studies;

3. 86.67% of the graduates of the class of 2015 shall enroll in college or other post-secondary studies;

4. 90% of the graduates of the class of 2016 shall enroll in college or other post-secondary studies; and

5. With respect to the graduates of each class after the class of 2016, either (a) 90% of the graduates of such class shall enroll in college or other post-secondary studies or (b) the average annual percentage of the graduates of such class and the two immediately preceding classes that are enrolled in college or other post-secondary studies is at least 90%.

If (i) the enrollment of any incoming freshman class for any school year during the term of the Building Sublease shall be less than 100 students, (ii) the average daily attendance rate during any school year is less than 90% or (iii) any senior class at the high school shall have an average ACT score of less than 18, then an action plan will be developed by CUE and upon approval by the PSAD Board, will be pursued by CUE. In no event shall the occurrence of any of the events described in (i), (ii) or (iii) of the immediately preceding sentence or the failure to develop or pursue any action plan described above provide a basis for termination under this Agreement. The PSAD Board, the Contract Administrator and CUE shall develop mutually acceptable guidelines for calculating the Graduation, Re-enrollment and Post-Secondary Education Rates.

BLOOMFIELD 38030-4 962131v2

## MANAGEMENT AGREEMENT

This Educational Management Company Agreement ("Agreement") is made and entered into as of the ~~24~~ day of December, 2007 by and between New Urban Learning, a Michigan nonprofit corporation ("NUL"), and the Public School Academies of Detroit, a Michigan nonprofit corporation (the "PSAD").

The following is a recital of facts underlying this Agreement:

The PSAD is organized to operate urban high school academies in Detroit pursuant to the Michigan Revised School Code, Part 6C (the "Code"). The PSAD anticipates that it will enter into a contract, as defined in the Code (the "Contract"), with the Board of Trustees of Grand Valley State University (the "Authorizer Board") to organize and operate urban high school academies.

NUL is a nonprofit corporation founded with the purpose of bringing a new model of urban schools to the state of Michigan.

The PSAD and NUL desire to create an enduring educational partnership, whereby the PSAD and NUL will work together to bring educational excellence and innovation to one of the PSAD urban high school academies based on NUL's school design and capacity to implement and manage a comprehensive educational program.

To pursue this purpose, the parties desire to implement an arrangement for the University Prep - Science and Math High School's (the "Academy") management and operation.

Therefore, it is mutually agreed as follows:

### ARTICLE I CONTRACTING RELATIONSHIP

A. Authority. The PSAD is authorized by law to contract with a private entity for the provision of educational management services. The PSAD further has been or will be granted the Contract by the Authorizer Board to organize and operate an urban high school academy. The PSAD is therefore authorized by the Authorizer Board to supervise and control such academy, and is invested with the powers set forth under the Code to carry out the educational program contemplated in this Agreement. Notwithstanding anything contained herein to the contrary, the PSAD's Board of Directors ("Academy Board"), pursuant to the Code and in accordance with the Contract, shall be accountable for the Academy's overall oversight, monitoring and supervision and shall be responsible for the establishment and/or approval of the Academy's strategic planning, policies and budgeting.

B. Contract. The PSAD contracts to NUL, to the extent permitted by law or as otherwise provided in the Contract Administration agreement between PSAD and the Thompson Educational Foundation (the "Contract Administrator"), all functions relating to the provisions of educational services and the management and operation of the Academy in accordance with the enrollment, age and grade level specifications for the Academy and as further set forth or limited herein.

C. Status of the Parties. NUL is a nonprofit corporation, organized and existing under the laws of the state of Michigan, and is not a division or a part of the PSAD or the Academy. The PSAD is a nonprofit corporation, organized and existing under the laws of the state of Michigan. Pursuant to Code, the PSAD is a body corporate and governmental agency of the State of Michigan, and is not division or part of NUL. The relationship between NUL and the PSAD is based solely on the terms of this Agreement, and the terms of any other agreements between them. In performing its duties under this Agreement, it is mutually understood and agreed that NUL shall be at all times acting and performing as an independent contractor. Nothing in this Agreement is intended to create an employer/employee relationship, partnership or joint venture relationship between the parties.

## **ARTICLE II**

### **TERM**

A. Term. The term of this Agreement (the 'Term') shall be for three years and commence on July 1, 2008 ("Commencement Date") and end on June 30, 2011, unless earlier terminated in accordance with this Agreement. For purposes of this Agreement, "academic year" shall mean the fiscal year beginning July 1 and ending June 30 of the following year.

B. Renewal. This Agreement shall be extended for an additional period of two years, unless written notice of intent to terminate or renegotiate is given by either party not less than on hundred twenty (120) days prior to the end of any academic year.

## **ARTICLE III**

### **FUNCTIONS OF NUL**

A. Responsibility. NUL shall be responsible and accountable to the PSAD and its Contract Administrator, for the Academy's administration, operation and performance. On and after the Commencement Date, NUL shall be responsible for the Academy's day-to-day management and shall undertake such responsibilities in good faith and in the Academy's best interests. NUL is granted such power and authority on the Academy's behalf as is reasonably necessary or appropriate to perform its obligations under this Agreement, subject to the express limitations stated in this Agreement. Except as expressly stated herein, the descriptions of NUL's power and authority stated in this Article III are not intended to limit or restrict other powers and authority which may be necessary or appropriate for NUL to perform its obligations under this Agreement. Nothing in this Agreement shall be construed to confer upon NUL authority to act where the Code requires official action by the Academy Board.

B. Educational Program. Consistent with the Code, the parameters of the Contract and the Academy Goals (as defined in Section G of this Article III), the educational program(s) and program(s) of instruction (collectively, the "Educational Program") provided by NUL at the Academy may be adapted and modified by NUL from time to time, it being understood that an essential principle of this Educational Program is its flexibility, adaptability and capacity to change in the interest of continuous improvement and efficiency, and that the Academy and NUL are interested in results and not inflexible prescriptions. The PSAD, through its Contract Administrator, shall be consulted before any substantial adaptation or modification to the educational program. Where the Code requires PSAD action in connection with the Educational Program, NUL shall advise the PSAD, through its Contract Administrator, that such action is

required and shall, consistent with the terms of this Agreement, carry out the direction of the PSAD.

C. Specific Functions. NUL shall be responsible for the Academy's management, operation, administration and Education Program. Such functions include, but are not limited to:

1. Implementation and administration of the Educational Program, including the selection and acquisition of instructional materials, equipment and supplies, and the administration of any and all extra-and co-curricular activities and programs;
2. Management of all personnel functions, including professional development for the School Administrator and all instructional personnel and the personnel functions outlined in Article VI;
3. Operation of the school building designated by the Academy Board and the installation of technology integral to school design.
4. All aspects of the Academy's business administration;
5. The provision of food service for the Academy; and
6. Any other function necessary or expedient for the Academy's administration.

D. Subcontracts. NUL reserves the right to subcontract any and all aspects of services it agrees to provide to the Academy, including, but not limited to food service. However, NUL shall not subcontract the management, oversight or operation of the teaching and instructional program, except as specifically permitted in this Agreement or with the Academy Board's prior written approval.

E. Placement of Performance. NUL reserves the right to perform functions other than instruction, such as purchasing, professional development, and administrative functions, offsite at other NUL locations, unless prohibited by state or local law.

F. Student Recruitment. The parties shall be jointly responsible for the recruitment of students subject to agreement on general recruitment and admission policies. Students shall be selected in accordance with the procedures set forth in Contract and in compliance with the Code and other applicable law.

G. Legal Requirements. The parties acknowledge that the Contract establishes certain educational goals for the Academy to achieve and the methods to provide the Educational Program in a manner that will reasonably meet (i) all applicable federal, state, and local laws and rules and regulations applicable to the Academy ("Applicable Law"), and (ii) the requirements imposed upon the Academy under the Code and the Contract (unless such requirements are or have been waived) and (iii) the Academy Goals.

H. Due Process Hearings. NUL shall cooperate with the Academy Board in meeting its obligations to provide students with all necessary due process hearings in conformity with

Applicable Law, including matters relating to discipline, special education, confidentiality and access to records.

I. Rules & Procedures. NUL shall recommend reasonable rules, regulations and procedures applicable to the Academy and is authorized and directed to enforce such rules, regulations and procedures as are adopted by the Academy Board.

J. School Year and School Day. The school year and the school day shall be as provided in the application for the Contract submitted to and approved by the Authorizer Board.

K. Authority. NUL shall have the authority and power necessary to undertake its responsibilities under this Agreement except in the case(s) wherein such power may not be delegated by law.

L. Compliance With Applicable Law and the Contract. In carrying out its responsibilities hereunder, NUL shall observe and comply with, and cooperate with the Academy Board and its Contract Administrator in complying with the Applicable Law, including without limitation the laws referenced in Section 503(6) of the Code. NUL agrees to perform its duties and responsibilities under this Agreement in a manner consistent with the PSAD's obligations under the Contract issued by the PSAD. The PSAD's obligations under the Contract shall supersede any competing obligations of the PSAD.

M. Building F will be located in a new building constructed pursuant to the Lease and Joint Use Agreement between TEF and the PSAD at 5020 John R, Detroit Michigan 48202. The single member is the Th Contract Administrator w Five, LLC's obligations u construction of an approx Academy's Middle School nominal amount, and NUL to the PSAD for the oper required for the Academy's related single member lin Administrator, will pay for facilities to NUL. NUL will provide such temporary facilities at no additional expense to the PSAD for the operation of the Academy's Middle School.

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#### ARTICLE IV OBLIGATIONS OF THE ACADEMY BOARD

The Academy Board shall exercise good faith in adopting the recommendations of NUL including, but not limited to, NUL's recommendations concerning policies, rules, regulations, procedures, curriculum, and budgets.

**ARTICLE V**  
**COMPENSATION FOR SERVICES**

A. Compensation for Services. The Academy shall pay NUL an annual fee not to exceed 3% of the state school aid that the Academy receives, directly or indirectly, from the State of Michigan pursuant to the State School Aid Act of the 1979, as amended, for the particular students enrolled in the Academy less the amount the Authorizer Board receives for its oversight responsibilities, as described in the contract. Such compensation will not preclude the payment of additional compensation if additional compensation is permitted or specified elsewhere in this Agreement or in any other agreements between the parties ("Additional Compensation"). Notwithstanding any other provision of the Agreement, the total annual management fee plus any Additional Compensation payable to NUL hereunder shall not exceed \$250,000, nor shall such total annual management fee plus any Additional Compensation be less than \$125,000, subject to change by agreement of the parties depending upon changes in annual enrollment.

B. Reasonable Compensation. The Academy acknowledges and agrees that compensation payable to NUL under this Agreement is reasonable compensation for the services to be rendered by NUL to the Academy under this Agreement. NUL's compensation for services under this Agreement will not be based, in whole or in part, on a share of net profits from the Academy's operation.

C. Payment of Costs. Except as otherwise provided in this Agreement, the Academy shall fully fund the budget the Academy Board approves for NUL's operation of the Academy. In addition to the Compensation described in paragraph A of this Article, NUL shall receive reimbursement from the Academy for all costs and expenses incurred and paid by NUL in providing the Educational Services, administrative services and other goods and services pursuant to this Agreement. Such costs include, but are not limited to, salaries for all personnel, curriculum materials, instructional materials, textbooks, library books, computer and other equipment, software, supplies, food services, transportation, special education, building payments, maintenance, capital improvements, psychological services and medical services. In paying costs and expenses on the Academy's behalf, NUL shall not charge an added fee unless such fee is approved in advance by the Academy Board and, provided further, that fees shall be considered Additional Compensation as defined in paragraph A of this Article V. The Academy Board may advance funds to NUL for such costs.

D. Time and Priority of Payment. The compensation due to NUL pursuant to Paragraph A of this Article shall be calculated for each school year at the same time as the State of Michigan calculates the State School Aid, and adjustments to such calculation shall occur at the same time as the State of Michigan makes adjustments to the State School Aid. NUL shall receive its compensation pursuant to Paragraph A of this Article in eleven (11) installments beginning in October of each academic year and ending in August of such academic year. Such installment amounts shall be due and payable within ten (10) days of receipt by the Academy of each of its State School Aid payments. Payments due and owing to NUL pursuant to Paragraph C of this Article shall be made by the Academy to NUL on the last day of each month.

E. The Academy shall satisfy its payment obligation under this Article to NUL in the following order of priority: (1) to reimburse NUL pursuant to Paragraph C of this Article for



sums due and owing for previous months; (2) to reimburse NUL pursuant to Paragraph C of this Article for sums due and owing for the current month; (3) to pay NUL pursuant to Paragraph A of this Article for installment payments due and owing for previous months; and (4) to pay NUL pursuant to Paragraph A of this Article for installment payments due and owing for the current month.

F. No Related Parties or Common Control. In interpreting this Agreement and in the provision of the required services, NUL shall not have any role or relationship with the Academy that, in effect, substantially limits the Academy's ability to exercise its rights, including cancellation rights, under this Agreement. As required by the Academy's Articles of Incorporation and Bylaws, the Academy Board may not include any director, officer or employee of a management company that contracts with the Academy. In furtherance of such restriction it is agreed between the Academy and NUL that none of the voting power or the governing body of the Academy will be vested in NUL or its directors, members, managers, officers, shareholders and employees, and the Academy and NUL will not be related parties as defined in Treas. Reg. § 1.150-1 (b).

G. Other Revenue Sources. To supplement and enhance the State School Aid payments, and improve the quality of education at the Academy, the Academy and NUL shall endeavor to obtain revenue from other sources. In this regard:

1. The Academy may solicit and receive grants, and donations consistent with the Academy's mission;
2. The Academy and/or NUL may apply for and receive grant money, in the name of NUL or the Academy; and
3. To the extent permitted under the Code, NUL may charge fees to students for extra services such as summer programs and charge non Academy students who participate in such programs. Such fees shall be considered Additional Compensation as defined in paragraph A of this Article V.
4. All funds received by the Academy or by NUL on the Academy's behalf from such other revenue sources shall inure to and be deemed the Academy's property.

H. Start-up Funds. NUL and the Academy Board shall, in good faith, work together to identify and agree upon funding sources to be used to cover the Academy's start-up costs. The parties acknowledge that such costs may include expenses related to the development of a curriculum, technology system and school operations plan; recruiting, selecting and pre-service training of staff members; purchasing of instructional materials and supplies and other materials deemed necessary to initiate the Educational Program.

I. Other Public School Academies. The Academy acknowledges that NUL may enter into similar management agreements with other public school academies or traditional public schools in the future. NUL shall separately account for reimbursable expenses incurred on the Academy's behalf and other public school academies, and only charge the Academy for expenses incurred on the Academy's behalf. If NUL incurs reimbursable expenses on the Academy's behalf and other public school academies which are incapable of precise allocation

between such academies, the NUL shall allocate such expenses among all such academies, including the Academy, on a pro rata basis based upon the number of students enrolled at such academies, or upon such other equitable basis as is acceptable to the parties.

J. Financial and Other Reporting. NUL shall provide the Academy with:

1. A projected annual budget prior to each academic year;
2. Detailed statements of all revenues received, from whatever source, with respect to the Academy, and detailed statements of all direct expenditures for services rendered to or on the Academy's behalf, whether incurred on-site or off-site, upon request;
3. Annual audits in compliance with state law and regulations showing the manner in which funds are spent at the Academy;
4. Quarterly detailed reporting of revenues and expenditures in the form of: detailed budget-to-actual and balance sheet;
5. Reports on Academy operations, finances and student performance, upon request, but not less frequently than four (4) times per year; and
6. Other information on a periodic basis to enable the Academy Board and the Contract Administrator to monitor NUL's educational performance and the efficiency of its operation of the Academy.

K. Access to Records. NUL shall keep accurate financial records pertaining to its operation of the Academy, together with all Academy financial records prepared by or in the possession of NUL, and retain all such records for a period of five (5) years from the close of the fiscal year to which such books, accounts, and records relate. NUL and the Academy shall maintain the proper confidentiality of personnel, students and other records as required by law. All Academy financial records retained by NUL shall be available to either the Academy or the Authorizer Board for inspection and copying upon reasonable request. NUL shall make information concerning the operation and management of the Academy, including without limitation the information described in Schedule 14 of the Contract, available to the PSAD as deemed necessary by the PSAD. NUL shall comply with Section 11.16 of the Contract.

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B. School Administrator. Because the accountability of NUL to the Academy is an essential foundation of this partnership, and because the responsibility of the School Administrator of the Academy is critical to its success, NUL will have the authority, consistent with state law, to select and supervise the School Administrator and to hold him or her accountable for the Academy's success. The employment contract with the School Administrator, and the duties and compensation of the School Administrator, shall be determined by NUL. The School Administrator and NUL, in turn, will have similar authority to select and hold accountable the teachers in the Academy.

C. Teachers. NUL shall, consistent with the Education Program and within the parameters of approved Academy budgets, determine the number of teachers, and the applicable grade levels and subjects, required for the Academy's operation. NUL shall provide the Academy with such teachers, qualified in the grade levels and subjects required, as are required by the Academy. The curriculum taught by such teachers will be the curriculum agreed upon by the Academy Board and NUL, consistent with the Contract. Such teachers may, in NUL's discretion, work at the Academy on a full or part time basis. If assigned to the Academy on a part time basis, such teachers may also work at other schools operated by NUL in the future. Each teacher assigned to or retained by the Academy shall hold a valid teaching certificate issued by the state board of education under the Code, to the extent required under the Code.

D. Support Staff. NUL shall, consistent with the Education Program and within the parameters of approved Academy budgets, determine the number and functions of support staff required for the Academy's operation. NUL shall provide the Academy with such support staff, qualified in the areas required, as are required by the Academy. Such support staff may, in NUL's discretion work at the Academy on a full or part time basis. If assigned to the Academy on a part time basis, such support staff may also work at other schools operated by NUL in the future.

E. Training. NUL shall provide training in its methods, curriculum, program, and technology, to all teaching personnel, on a regular and continuous basis. Non-instructional personnel shall receive such training as NUL determines as reasonable and necessary under the circumstances.

## **ARTICLE VII**

### **TERMINATION OF AGREEMENT**

A. Termination by the Parties. Either party may terminate this Agreement without cause prior to the end of the Term by giving 120 days' written notice of termination to the other party. Unless otherwise agreed by the parties, the termination shall become effective upon the expiration of the 120 day notice period.

B. Termination Upon Revocation of Contract. If the Contract issued by the Authorizer Board is revoked or terminated, this Agreement shall automatically terminate on the same date as the Contract is revoked or terminated without further action of the parties.

C. Expiration. Upon expiration of this Agreement at the completion of the Term and where there is no renewal, NUL shall have the right to reclaim any usable property or equipment (e.g., including but not limited to desks, computers, copying machines, fax machines,

telephones) as were purchased by or for the Academy by NUL at its cost or expense. Fixtures and building alterations shall become the Academy's property.

D. Transition. In the event of termination of this Agreement for any reason by either party or upon revocation of the Contract as provided under Paragraph B before the end of this Agreement's term, NUL shall provide the Academy reasonable assistance for up to 90 days to assist in the transition.

## **ARTICLE VII** **PROPRIETARY INFORMATION**

To the extent permitted by law, the Academy agrees that NUL shall own all copyright and other proprietary rights to all instructional materials, training materials, curriculum and lesson plans, and any other materials developed by NUL, its employees, agents or subcontractors, or by any individual working for or supervised by NUL, which is developed during the working hours or during time for which the individual is being paid. NUL shall have the sole and exclusive right to license such materials for use by other school districts, public school academies, private schools, or customers or to modify and/or sell material to other schools and customers. During the Term, NUL may disclose such proprietary information, including that which is currently in existence as well as that which may be created in the future. Upon expiration of this Agreement, the Academy, however, may continue to use proprietary information developed on the Academy's behalf in the implementation of its ongoing educational program.

## **ARTICLE IX** **INDEMNIFICATION**

A. Indemnification of the Academy. NUL shall indemnify and save and hold the Academy and all of its employees, officers, directors, subcontractors and agents (collectively, employees) harmless against any and all claims, demands, suits or other forms of liability that may arise out of, or by reason of, any noncompliance by NUL with any agreement, covenants, warranties or undertakings of NUL contained in or made pursuant to this Agreement; and any misrepresentation or breach of the representations and warranties of NUL contained in or made pursuant to this Agreement. In addition, NUL shall reimburse the Academy for any and all legal expenses and costs associated with the defense of any such claim, demand or suit. The indemnification requirements of this paragraph may be met by the purchase of insurance in a form and amounts acceptable to the Academy.

B. Indemnification of NUL. To the extent permitted under applicable law, the Academy shall indemnify and save and hold NUL and all of its employees, officers, directors, subcontractors and age (collectively, "employees") harmless against any and all claims, demands, suite or other forms of liability that may arise out of, or by reason of, any claim that this Agreement or any part thereof is in violation of law; any noncompliance by the Academy with any agreements, covenants, warranties or undertakings of the Academy contained in or made pursuant to this Agreement; and any misrepresentation or breach of the representations and warranties of the Academy contained in or made pursuant to this Agreement. In addition, the Academy shall reimburse NUL for any and all legal expenses and costs associated with the

defense of any such claim, demand or suit. The indemnification requirements of this paragraph may be met by the purchase of insurance in a form and amounts acceptable to NUL.

C. Inability to Open School. Should either party fail to perform the obligations of this Agreement prior to the beginning of the first academic year contemplated under this Agreement, it shall hold the other harmless for the reasonable expenses incurred by that party in preparing for the opening of school operations, provided that such other party has substantially fulfilled all its obligations necessary to the performance, including but not limited to securing such waivers as may be necessary for NUL to be in operation and approving NUL's recommendation for selection of the Academy's school personnel.

D. Indemnification for Negligence. Each party to this Agreement shall indemnify and hold harmless the other, and their respective boards of directors, partners, officers, employees, agents and representatives, from any and all claims and liabilities which they may incur and which arise out of the negligence of the other party, or the negligence of the other party's trustees, directors, officers, employees, agents, or representatives.

E. Indemnification of Grand Valley State University. The parties acknowledge and agree that the Grand Valley State University Board of Trustees, Grand Valley State University and its members, officers, employees, agents or representatives are deemed to be third party beneficiaries for purposes of this Agreement. As third party beneficiaries, the parties hereby promise to indemnify and hold harmless Grand Valley State University Board of Trustees, Grand Valley State University and its members, officers, employees, agents or representatives from all claims, demands, or liability, including attorney fees, and related expenses, on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other losses of any kind whatsoever and not caused by the sole negligence of Grand Valley State University, which arise out of or are in any manner connected with Grand Valley State University Board's approval of the urban high school academy application, the University Board's consideration of or issuance of a Contract, the PSAD's preparation for and operation of a public school, or which are incurred as a result of the reliance by Grand Valley State University and its Board of Trustees members, officers, employees, agents or representatives upon information supplied by the PSAD or NUL, or which arise out of the failure of the PSAD to perform its obligations under the Charter issued to the PSAD by Grand Valley State University Board of Trustees. The parties expressly acknowledge and agree that Grand Valley State University and its Board of Trustee members, officers, employees, agents or representatives may commence legal action against either party to enforce its rights as set forth in this Agreement.

## **ARTICLE X**

### **INSURANCE**

A. Insurance Coverage. The Academy shall secure and maintain the normal general liability and umbrella insurance coverage's in the amounts required by the Contract, with NUL listed as an additional insured.

B. Workers' Compensation Insurance. Each party shall maintain workers' compensation insurance as required by law, covering their respective employees.

C. Cooperation. Each party will, upon request, present evidence to the other that it maintains the requisite insurance in compliance with the provisions of this Article. Each party shall comply with any information or reporting requirements required by the other party's insurer(s), to the extent reasonably practicable.

## **ARTICLE XI**

### **WARRANTIES AND REPRESENTATIONS**

Each party represents that it has the authority under law to execute, deliver and perform this Agreement and to incur the obligations provided for under this Agreement, that its actions have been duly and validly authorized, and that it will adopt any and all resolutions or expenditure approvals required for execution of this Agreement.

## **ARTICLE XII**

### **ALTERNATIVE DISPUTE RESOLUTION PROCEDURE**

Any and all disputes between the parties, concerning any alleged breach of this Agreement, or arising out of or relating to the interpretation of this Agreement or the parties' performance of their respective obligations under this Agreement, shall be resolved by arbitration, and such procedure shall be the sole and exclusive remedy for such matters. Unless the parties agree upon a single arbitrator, the arbitration panel shall consist of three persons, including one person who is selected or recommended by the Authorizer Board, one person selected by the Academy Board and one person selected by NUL. The arbitration shall be conducted in accordance with the rules of the American Arbitration Association, with such variations as the parties and arbitrator unanimously accept. A judgment on the award rendered by the arbitrators may be entered in any court having appropriate jurisdiction.

## **ARTICLE XIII**

### **MISCELLANEOUS**

A. Sole Agreement. This Agreement supersedes and replaces any and all prior agreements and understandings between the Academy and NUL on the subject matter hereof.

B. Force Majeure. Neither party shall be liable if the performance of any part or all of this Agreement is prevented, delayed, hindered or otherwise made impracticable or impossible by reason of any strike, flood, riot, fire, explosion, war or act of God.

C. Notices. All notices, demands, requests and consents under this Agreement shall be in writing, shall be delivered to each party and shall be effective when received by the parties or mailed to the parties at their respective addresses set forth below, or at such other address as may be furnished by a party to the other party:

If to NUL:

New Urban Learning  
600 Antoinette  
Detroit, MI 48202

If to Academy:

Public School Academies of Detroit  
Contract Administrator  
P.O. Box 6349  
Plymouth, MI 48170

D. Severability. The invalidity of any of the covenants, phrases or clauses in this Agreement shall not affect the remaining portions of this Agreement, and this Agreement shall be construed as if such invalid covenant, phrase or clause had not been contained in this Agreement.

E. Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the parties and their respective successors and assigns.

F. Entire Agreement. This Agreement is the entire agreement between the parties relating to the services provided by the parties and the compensation to be paid for such services.

G. Non-Waiver. No failure to a party in exercising any right, power or privilege under this Agreement shall affect such right, power or privilege, nor shall any single or partial exercise thereof preclude any further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies of the parties under this Agreement are cumulative and not exclusive of any rights or remedies which any of them may otherwise have.

H. Governing Law. This Agreement shall be governed by and enforced in accordance with the laws of the state of Michigan.

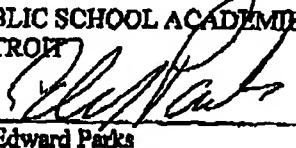
The parties have executed this Agreement as of the day and year first above written.

NEW URBAN LEARNING

By:   
Doug Ross  
Chairperson, Board of Directors

Date: 12/3/07

PUBLIC SCHOOL ACADEMIES OF  
DETROIT

By:   
Edward Parks  
President, Board of Directors

Date: 12/3/07

BLOOMFIELD 11/17/07 11:52:12a

## MANAGEMENT AGREEMENT

This Educational Management Company Agreement ("Agreement") is made and entered into as of the 20th day of August, 2008 by and between New Urban Learning, a Michigan nonprofit corporation ("NUL"), and the Public School Academies of Detroit, a Michigan nonprofit corporation (the "PSAD").

The following is a recital of facts underlying this Agreement:

The PSAD is organized to operate urban high school academies in Detroit pursuant to the Michigan Revised School Code, Part 6C (the "Code"). The PSAD anticipates that it will enter into a contract, as defined in the Code (the "Contract"), with the Board of Trustees of Grand Valley State University (the "Authorizer Board") to organize and operate urban high school academies.

NUL is a nonprofit corporation founded with the purpose of bringing a new model of urban schools to the state of Michigan.

The PSAD and NUL desire to create an enduring educational partnership, whereby the PSAD and NUL will work together to bring educational excellence and innovation to one of the PSAD urban high school academies based on NUL's school design and capacity to implement and manage a comprehensive educational program.

To pursue this purpose, the parties desire to implement an arrangement for the University Preparatory Academy (the "Academy") management and operation.

The Academy consists of one High School; one Middle School; and two Elementary Schools designated as Elementary I and Elementary II, for purposes of this agreement.

Therefore, it is mutually agreed as follows:

### ARTICLE I CONTRACTING RELATIONSHIP

A. Authority. The PSAD is authorized by law to contract with a private entity for the provision of educational management services. The PSAD further has been or will be granted the Contract by the Authorizer Board to organize and operate an urban high school academy. The PSAD is therefore authorized by the Authorizer Board to supervise and control such academy, and is invested with the powers set forth under the Code to carry out the educational program contemplated in this Agreement. Notwithstanding anything contained herein to the contrary, the PSAD's Board of Directors ("Academy Board"), pursuant to the Code and in accordance with the Contract, shall be accountable for the Academy's overall oversight, monitoring and supervision and shall be responsible for the establishment and/or approval of the Academy's strategic planning, policies and budgeting.

B. Contract. The PSAD contracts to NUL, to the extent permitted by law or as otherwise provided in the Contract Administration agreement between PSAD and the Thompson Educational Foundation (the "Contract Administrator"), all functions relating to the provisions of educational services and the management and operation of the Academy in accordance with the



enrollment, age and grade level specifications for the Academy and as further set forth or limited herein.

C. Status of the Parties. NUL is a nonprofit corporation, organized and existing under the laws of the state of Michigan, and is not a division or a part of the PSAD or the Academy. The PSAD is a nonprofit corporation, organized and existing under the laws of the state of Michigan. Pursuant to Code, the PSAD is a body corporate and governmental agency of the State of Michigan, and is not division or part of NUL. The relationship between NUL and the PSAD is based solely on the terms of this Agreement, and the terms of any other agreements between them. In performing its duties under this Agreement, it is mutually understood and agreed that NUL shall be at all times acting and performing as an independent contractor. Nothing in this Agreement is intended to create an employer/employee relationship, partnership or joint venture relationship between the parties.

## **ARTICLE II**

### **TERM**

A. Term. The term of this Agreement (the 'Term') shall be for three years and commence on September 1, 2008 ("Commencement Date") and end on August 30, 2011, unless earlier terminated in accordance with this Agreement. For purposes of this Agreement, "academic year" shall mean the fiscal year beginning July 1 and ending June 30 of the following year.

B. Renewal. This Agreement shall be extended for an additional period of two years, unless written notice of intent to terminate or renegotiate is given by either party not less than one hundred twenty (120) days prior to the end of any academic year.

## **ARTICLE III**

### **FUNCTIONS OF NUL**

A. Responsibility. NUL shall be responsible and accountable to the PSAD and its Contract Administrator, for the Academy's administration, operation and performance. On and after the Commencement Date, NUL shall be responsible for the Academy's day-to-day management and shall undertake such responsibilities in good faith and in the Academy's best interests. NUL is granted such power and authority on the Academy's behalf as is reasonably necessary or appropriate to perform its obligations under this Agreement, subject to the express limitations stated in this Agreement. Except as expressly stated herein, the descriptions of NUL's power and authority stated in this Article III are not intended to limit or restrict other powers and authority which may be necessary or appropriate for NUL to perform its obligations under this Agreement. Nothing in this Agreement shall be construed to confer upon NUL authority to act where the Code requires official action by the Academy Board.

B. Educational Program. Consistent with the Code, the parameters of the Contract and the Academy Goals (as defined in Section G of this Article III), the educational program(s) and program(s) of instruction (collectively, the "Educational Program") provided by NUL at the Academy may be adapted and modified by NUL from time to time, it being understood that an essential principle of this Educational Program is its flexibility, adaptability and capacity to change in the interest of continuous improvement and efficiency, and that the Academy and

NUL are interested in results and not inflexible prescriptions. The PSAD, through its Contract Administrator, shall be consulted before any substantial adaptation or modification to the educational program. Where the Code requires PSAD action in connection with the Educational Program, NUL shall advise the PSAD, through its Contract Administrator, that such action is required and shall, consistent with the terms of this Agreement, carry out the direction of the PSAD.

C. Specific Functions. NUL shall be responsible for the Academy's management, operation, administration and Education Program. Such functions include, but are not limited to:

1. Implementation and administration of the Educational Program, including the selection and acquisition of instructional materials, equipment and supplies, and the administration of any and all extra-and co-curricular activities and programs;
2. Management of all personnel functions, including professional development for the School Administrator and all instructional personnel and the personnel functions outlined in Article VI;
3. Operation of the school building designated by the Academy Board and the installation of technology integral to school design.
4. All aspects of the Academy's business administration;
5. The provision of food service for the Academy; and
6. Any other function necessary or expedient for the Academy's administration.

D. Subcontracts. NUL reserves the right to subcontract any and all aspects of services it agrees to provide to the Academy, including, but not limited to food service. However, NUL shall not subcontract the management, oversight or operation of the teaching and instructional program, except as specifically permitted in this Agreement or with the Academy Board's prior written approval.

E. Placement of Performance. NUL reserves the right to perform functions other than instruction, such as purchasing, professional development, and administrative functions, offsite at other NUL locations, unless prohibited by state or local law.

F. Student Recruitment. The parties shall be jointly responsible for the recruitment of students subject to agreement on general recruitment and admission policies. Students shall be selected in accordance with the procedures set forth in Contract and in compliance with the Code and other applicable law.

G. Legal Requirements. The parties acknowledge that the Contract establishes certain educational goals for the Academy to achieve and the methods to provide the Educational Program in a manner that will reasonably meet (i) all applicable federal, state, and local laws and rules and regulations applicable to the Academy ("Applicable Law"), and (ii) the requirements

imposed upon the Academy under the Code and the Contract (unless such requirements are or have been waived) and (iii) the Academy Goals.

H. Due Process Hearings. NUL shall cooperate with the Academy Board in meeting its obligations to provide students with all necessary due process hearings in conformity with Applicable Law, including matters relating to discipline, special education, confidentiality and access to records.

I. Rules & Procedures. NUL shall recommend reasonable rules, regulations and procedures applicable to the Academy and is authorized and directed to enforce such rules, regulations and procedures as are adopted by the Academy Board.

J. School Year and School Day. The school year and the school day shall be as provided in the application for the Contract submitted to and approved by the Authorizer Board.

K. Authority. NUL shall have the authority and power necessary to undertake its responsibilities under this Agreement except in the case(s) wherein such power may not be delegated by law.

L. Compliance With Applicable Law and the Contract. In carrying out its responsibilities hereunder, NUL shall observe and comply with, and cooperate with the Academy Board and its Contract Administrator in complying with the Applicable Law, including without limitation the laws referenced in Section 503(6) of the Code. NUL agrees to perform its duties and responsibilities under this Agreement in a manner consistent with the PSAD's obligations under the Contract issued by the Authorizer Board. The provisions of the Contract shall supersede any competing or conflicting provisions contained in this Agreement.

M. Building Facilities. The Academy High School, Middle School; Elementary I and Elementary II will be operated in separate building facilities.

1. The High School aspect of the Academy will be located at 600 Antoinette, Detroit, Michigan 48202, pursuant to a Lease dated June 4, 2003 between the Thompson Educational Foundation and the PSAD, as successor by merger to the University Preparatory Academy, and pursuant to executed landlord consents to extend the lease tenancy dated August 5, 2008 until the lease is reformed. TEF-ONE, LLC, a single member limited liability company whose single member is the Thomson Educational Foundation, will lease the facility to NUL which will in turn sublease the facility to the Public School Academies of Detroit for nominal rent as an express condition to this Agreement. TEF ONE, LLC will sublease the building facility to NUL for a nominal amount, and NUL is obligated to provide the building facility at no additional expense to the PSAD for the operation of the Academy's High School.

2. The Middle School aspect of the Academy will be located at 5300 and 5310 St. Antoine, Detroit, Michigan 48202, pursuant to a Lease between the Thompson Educational Foundation and the Public School Academies of Detroit, as successor by merger to the University Preparatory Academy, and pursuant to executed landlord consents to extend the lease tenancy dated August 5, 2008 until the lease is reformed. TEF TWO, LLC, a single member limited liability company whose single member is the Thompson Educational Foundation. TEF TWO, LLC will sublease the building facility to NUL for a nominal amount,

and NUL is obligated to provide the building facility at no additional expense to PSAD for the operation of the Academy's Middle School.

3. The Elementary I aspect of the Academy will be located at 957 Holden, Detroit, Michigan 48202. PSAD has subleased this facility from NUL Leasehold Holding I, Inc. pursuant to a sublease dated June 30, 2008. NUL Leasehold Holding I, Inc. is the tenant under a certain Leasehold Installment Purchase Financing Agreement dated as of March 1, 2006 which was assigned and assumed by NUL Leasehold Holding I, Inc. pursuant to Omnibus Assignment dated June 30, 2008 and amended and restated pursuant to an Amended and Restated Leasehold Installment Purchase Financing Agreement dated as of June 30, 2008. NUL wholly owns NUL Leasehold Holding I, Inc. PSAD's sublease of Elementary I is a material term to this Agreement, and NUL is obligated to provide the building facility pursuant to the terms of the sublease.

4. The Elementary II aspect of the Academy will be located at 435 Amsterdam, Detroit, Michigan 48202, pursuant to a Lease between TEF-FOUR, LLC and an entity related to New Urban Learning located 600 Antoinette, Detroit, Michigan 48202. TEF FOUR, LLC is a single member limited liability company whose single member is the Thompson Educational Foundation. NUL is compelled through this Agreement to grant a Right of Entry in accordance with the provisions of Article III, Section N, to Elementary II to provide the building facility at no additional expense to the PSAD for the operation of Elementary II.

N. Right of Entry. Pursuant to Article III, Section M(4), of this Agreement, the NUL grants to the Academy and its agents, employees, and invitees, unconditional permission for the term of this Agreement to enter upon and use the property and building facilities located at 435 Amsterdam, Detroit, Michigan 48202 for the operation of the Elementary II aspect of the Academy for all purposes contemplated by the charter contract with GVSU, including permission to bring upon the property any and all materials, supplies and furniture required to operate Elementary II, and to conduct educational activities on the property, including without limitation, any and all activities which are principal, ancillary, customary and incidental to operating the Elementary II aspect of the Academy on the property. The operation of all activities upon the property and within the building facilities shall be done in accordance with all applicable laws, this Agreement, the charter contract with GVSU, and the Code..

#### **ARTICLE IV**

#### **OBLIGATIONS OF THE ACADEMY BOARD**

The Academy Board shall exercise good faith in adopting the recommendations of NUL including, but not limited to, NUL's recommendations concerning policies, rules, regulations, procedures, curriculum, and budgets.

**ARTICLE V**  
**COMPENSATION FOR SERVICES**

A. Compensation for Services. The Academy shall pay NUL an annual fee not to exceed 3% of the state school aid that the Academy receives, directly or indirectly, from the State of Michigan pursuant to the State School Aid Act of the 1979, as amended, for the particular students enrolled in the Academy less the amount the Authorizer Board receives for its oversight responsibilities, as described in the contract. Such compensation will not preclude the payment of additional compensation if additional compensation is permitted or specified elsewhere in this Agreement or in any other agreements between the parties ("Additional Compensation"). Notwithstanding any other provision of the Agreement, the total annual management fee plus any Additional Compensation payable to NUL hereunder shall not exceed \$250,000, nor shall such total annual management fee plus any Additional Compensation be less than \$125,000, subject to change by agreement of the parties depending upon changes in annual enrollment.

B. Reasonable Compensation. The Academy acknowledges and agrees that compensation payable to NUL under this Agreement is reasonable compensation for the services to be rendered by NUL to the Academy under this Agreement. NUL's compensation for services under this Agreement will not be based, in whole or in part, on a share of net profits from the Academy's operation.

C. Payment of Costs. Except as otherwise provided in this Agreement, the Academy shall fully fund the budget the Academy Board approves for NUL's operation of the Academy. In addition to the Compensation described in paragraph A of this Article, NUL shall receive reimbursement from the Academy for all costs and expenses incurred and paid by NUL in providing the Educational Services, administrative services and other goods and services pursuant to this Agreement. Such costs include, but are not limited to, salaries for all personnel, curriculum materials, instructional materials, textbooks, library books, computer and other equipment, software, supplies, food services, transportation, special education, building payments, maintenance, capital improvements, psychological services and medical services. In paying costs and expenses on the Academy's behalf, NUL shall not charge an added fee unless such fee is approved in advance by the Academy Board and, provided further, that fees shall be considered Additional Compensation as defined in paragraph A of this Article V. The Academy Board may advance funds to NUL for such costs.

D. Time and Priority of Payment. The compensation due to NUL pursuant to Paragraph A of this Article shall be calculated for each school year at the same time as the State of Michigan calculates the State School Aid, and adjustments to such calculation shall occur at the same time as the State of Michigan makes adjustments to the State School Aid. NUL shall receive its compensation pursuant to Paragraph A of this Article in eleven (11) installments beginning in October of each academic year and ending in August of such academic year. Such installment amounts shall be due and payable within ten (10) days of receipt by the Academy of each of its State School Aid payments. Payments due and owing to NUL pursuant to Paragraph C of this Article shall be made by the Academy to NUL on the last day of each month.

E. The Academy shall satisfy its payment obligation under this Article to NUL in the following order of priority: (1) to reimburse NUL pursuant to Paragraph C of this Article for

sums due and owing for previous months; (2) to reimburse NUL pursuant to Paragraph C of this Article for sums due and owing for the current month; (3) to pay NUL pursuant to Paragraph A of this Article for installment payments due and owing for previous months; and (4) to pay NUL pursuant to Paragraph A of this Article for installment payments due and owing for the current month.

F. No Related Parties or Common Control. In interpreting this Agreement and in the provision of the required services, NUL shall not have any role or relationship with the Academy that, in effect, substantially limits the Academy's ability to exercise its rights, including cancellation rights, under this Agreement. As required by the Academy's Articles of Incorporation and Bylaws, the Academy Board may not include any director, officer or employee of a management company that contracts with the Academy. In furtherance of such restriction it is agreed between the Academy and NUL that none of the voting power or the governing body of the Academy will be vested in NUL or its directors, members, managers, officers, shareholders and employees, and the Academy and NUL will not be related parties as defined in Treas. Reg. § 1.150-1 (b).

G. Other Revenue Sources. To supplement and enhance the State School Aid payments, and improve the quality of education at the Academy, the Academy and NUL shall endeavor to obtain revenue from other sources. In this regard:

1. The Academy may solicit and receive grants, and donations consistent with the Academy's mission;
2. The Academy and/or NUL may apply for and receive grant money, in the name of NUL or the Academy; and
3. To the extent permitted under the Code, NUL may charge fees to students for extra services such as summer programs and charge non Academy students who participate in such programs. Such fees shall be considered Additional Compensation as defined in paragraph A of this Article V.
4. All funds received by the Academy or by NUL on the Academy's behalf from such other revenue sources shall inure to and be deemed the Academy's property.

H. Start-up Funds. NUL and the Academy Board shall, in good faith, work together to identify and agree upon funding sources to be used to cover the Academy's start-up costs. The parties acknowledge that such costs may include expenses related to the development of a curriculum, technology system and school operations plan; recruiting, selecting and pre-service training of staff members; purchasing of instructional materials and supplies and other materials deemed necessary to initiate the Educational Program.

I. Other Public School Academies. The Academy acknowledges that NUL may enter into similar management agreements with other public school academies or traditional public schools in the future. NUL shall separately account for reimbursable expenses incurred on the Academy's behalf and other public school academies, and only charge the Academy for expenses incurred on the Academy's behalf. If NUL incurs reimbursable expenses on the Academy's behalf and other public school academies which are incapable of precise allocation

between such academies, the NUL shall allocate such expenses among all such academies, including the Academy, on a pro rata basis based upon the number of students enrolled at such academies, or upon such other equitable basis as is acceptable to the parties.

J. Financial and Other Reporting. NUL shall provide the Academy with:

1. A projected annual budget prior to each academic year;
2. Detailed statements of all revenues received, from whatever source, with respect to the Academy, and detailed statements of all direct expenditures for services rendered to or on the Academy's behalf, whether incurred on-site or off-site, upon request;
3. Annual audits in compliance with state law and regulations showing the manner in which funds are spent at the Academy;
4. Quarterly detailed reporting of revenues and expenditures in the form of: detailed budget-to-actual and balance sheet;
5. Reports on Academy operations, finances and student performance, upon request, but not less frequently than four (4) times per year; and
6. Other information on a periodic basis to enable the Academy Board and the Contract Administrator to monitor NUL's educational performance and the efficiency of its operation of the Academy.

K. Access to Records. NUL shall keep accurate financial records pertaining to its operation of the Academy, together with all Academy financial records prepared by or in the possession of NUL, and retain all such records for a period of five (5) years from the close of the fiscal year to which such books, accounts, and records relate. NUL and the Academy shall maintain the proper confidentiality of personnel, students and other records as required by law. All Academy financial records retained by NUL shall be available to either the Academy or the Authorizer Board for inspection and copying upon reasonable request. NUL shall make information concerning the operation and management of the Academy, including without limitation the information described in Schedule 14 of the Contract, available to the PSAD as deemed necessary by the PSAD Board in order to enable the PSAD to fully comply with Section 11.16 of the Contract.

L. Review of Budget. The Academy Board shall be responsible for reviewing, revising, and approving the Academy's annual budget proposed by NUL. NUL shall provide its budget information and other financial reports in a format required by the Academy Board or its Contract Administrator.

## **ARTICLE VI** **PERSONNEL & TRAINING**

A. Personnel Responsibility. Subject to the Contract, NUL shall have the sole responsibility and authority to determine staffing levels, and to select, evaluate, assign, discipline and transfer personnel, consistent with state and federal law.

B. School Administrator. Because the accountability of NUL to the Academy is an essential foundation of this partnership, and because the responsibility of the School Administrator of the Academy is critical to its success, NUL will have the authority, consistent with state law, to select and supervise the School Administrator and to hold him or her accountable for the Academy's success. The employment contract with the School Administrator, and the duties and compensation of the School Administrator, shall be determined by NUL. The School Administrator and NUL, in turn, will have similar authority to select and hold accountable the teachers in the Academy.

C. Teachers. NUL shall, consistent with the Education Program and within the parameters of approved Academy budgets, determine the number of teachers, and the applicable grade levels and subjects, required for the Academy's operation. NUL shall provide the Academy with such teachers, qualified in the grade levels and subjects required, as are required by the Academy. The curriculum taught by such teachers will be the curriculum agreed upon by the Academy Board and NUL, consistent with the Contract. Such teachers may, in NUL's discretion, work at the Academy on a full or part time basis. If assigned to the Academy on a part time basis, such teachers may also work at other schools operated by NUL in the future. Each teacher assigned to or retained by the Academy shall hold a valid teaching certificate issued by the state board of education under the Code, to the extent required under the Code.

D. Support Staff. NUL shall, consistent with the Education Program and within the parameters of approved Academy budgets, determine the number and functions of support staff required for the Academy's operation. NUL shall provide the Academy with such support staff, qualified in the areas required, as are required by the Academy. Such support staff may, in NUL's discretion work at the Academy on a full or part time basis. If assigned to the Academy on a part time basis, such support staff may also work at other schools operated by NUL in the future.

E. Training. NUL shall provide training in its methods, curriculum, program, and technology, to all teaching personnel, on a regular and continuous basis. Non-instructional personnel shall receive such training as NUL determines as reasonable and necessary under the circumstances.

## **ARTICLE VII**

### **TERMINATION OF AGREEMENT**

A. Termination by the Parties. Either party may terminate this Agreement without cause prior to the end of the Term by giving written notice of termination to the other party. If notice is given under this section, the termination shall become effective June 30 of the next calendar year. By way of example, if notice is given on December 31, 2008, the termination is effective June 30, 2009. If notice is given January 1, 2009, termination is effective June 30, 2010.

B. Termination Upon Revocation of Contract. If the Contract issued by the Authorizer Board is revoked or terminated, this Agreement shall automatically terminate on the same date as the Contract is revoked or terminated without further action of the parties.



C. Expiration. Upon expiration of this Agreement at the completion of the Term and where there is no renewal, NUL shall have the right to reclaim any usable property or equipment (e.g., including but not limited to desks, computers, copying machines, fax machines, telephones) as were purchased by or for the Academy by NUL at its cost or expense or for which NUL has not been reimbursed by PSAD, including but not limited to amounts paid pursuant to Article V. Fixtures and building alterations shall become the Academy's property.

D. Transition. In the event of termination of this Agreement for any reason by either party or upon revocation of the Contract as provided under Paragraph B before the end of this Agreement's term, NUL shall provide the Academy reasonable assistance for up to 90 days from and after the date of termination to assist in the transition.

## **ARTICLE VIII** **PROPRIETARY INFORMATION**

To the extent permitted by law, the Academy agrees that NUL shall own all copyright and other proprietary rights to all instructional materials, training materials, curriculum and lesson plans, and any other materials developed by NUL, its employees, agents or subcontractors, or by any individual working for or supervised by NUL, which is developed during the working hours or during time for which the individual is being paid. NUL shall have the sole and exclusive right to license such materials for use by other school districts, public school academies, private schools, or customers or to modify and/or sell material to other schools and customers. During the Term, NUL may disclose such proprietary information, including that which is currently in existence as well as that which may be created in the future. Upon expiration of this Agreement, the Academy, however, may continue to use proprietary information developed on the Academy's behalf in the implementation of its ongoing educational program.

## **ARTICLE IX** **INDEMNIFICATION**

A. Indemnification of the Academy. NUL shall indemnify and save and hold the Academy and all of its employees, officers, directors, subcontractors and agents (collectively, employees) harmless against any and all claims, demands, suits or other forms of liability that may arise out of, or by reason of, any noncompliance by NUL with any agreement, covenants, warranties or undertakings of NUL contained in or made pursuant to this Agreement; and any misrepresentation or breach of the representations and warranties of NUL contained in or made pursuant to this Agreement. In addition, NUL shall reimburse the Academy for any and all legal expenses and costs associated with the defense of any such claim, demand or suit. The indemnification requirements of this paragraph may be met by the purchase of insurance in a form and amounts acceptable to the Academy.

B. Indemnification of NUL. To the extent permitted under applicable law, the Academy shall indemnify and save and hold NUL and all of its employees, officers, directors, subcontractors and agents (collectively, "employees") harmless against any and all claims, demands, suits or other forms of liability that may arise out of, or by reason of, any claim that this Agreement or any part thereof is in violation of law; any noncompliance by the Academy with any agreements, covenants, warranties or undertakings of the Academy contained in or

made pursuant to this Agreement; and any misrepresentation or breach of the representations and warranties of the Academy contained in or made pursuant to this Agreement. In addition, the Academy shall reimburse NUL for any and all legal expenses and costs associated with the defense of any such claim, demand or suit. The indemnification requirements of this paragraph may be met by the purchase of insurance in a form and amounts acceptable to NUL.

C. Inability to Open School. Should either party fail to perform the obligations of this Agreement prior to the beginning of the first academic year contemplated under this Agreement, it shall hold the other harmless for the reasonable expenses incurred by that party in preparing for the opening of school operations, provided that such other party has substantially fulfilled all its obligations necessary to the performance, including but not limited to securing such waivers as may be necessary for NUL to be in operation and approving NUL's recommendation for selection of the Academy's school personnel.

D. Indemnification for Negligence. Each party to this Agreement shall indemnify and hold harmless the other, and their respective boards of directors, partners, officers, employees, agents and representatives, from any and all claims and liabilities which they may incur and which arise out of the negligence of the other party, or the negligence of the other party's trustees, directors, officers, employees, agents, or representatives.

E. Indemnification of Grand Valley State University. The parties acknowledge and agree that the Grand Valley State University Board of Trustees, Grand Valley State University and its members, officers, employees, agents or representatives are deemed to be third party beneficiaries for purposes of this Agreement. As third party beneficiaries, the parties hereby promise to indemnify and hold harmless Grand Valley State University Board of Trustees, Grand Valley State University and its members, officers, employees, agents or representatives from all claims, demands, or liability, including attorney fees, and related expenses, on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other losses of any kind whatsoever and not caused by the sole negligence of Grand Valley State University, which arise out of or are in any manner connected with Grand Valley State University Board's approval of the urban high school academy application, the University Board's consideration of or issuance of a Contract, the PSAD's preparation for and operation of a public school, or which are incurred as a result of the reliance by Grand Valley State University and its Board of Trustees members, officers, employees, agents or representatives upon information supplied by the PSAD or NUL, or which arise out of the failure of the PSAD to perform its obligations under the Charter issued to the PSAD by Grand Valley State University Board of Trustees. The parties expressly acknowledge and agree that Grand Valley State University and its Board of Trustee members, officers, employees, agents or representatives may commence legal action against either party to enforce its rights as set forth in this Agreement.

## **ARTICLE X** **INSURANCE**

A. Insurance Coverage. NUL or a designated entity related to NUL, shall secure and maintain the normal general liability and umbrella insurance coverage's in the amounts required by the Contract, with coverage extending to the Academy High School, Middle School, Elementary I and Elementary II property and building facilities.

B. Workers' Compensation Insurance. Each party shall maintain workers' compensation insurance as required by law, covering their respective employees.

C. Cooperation. Each party will, upon request, present evidence to the other that it maintains the requisite insurance in compliance with the provisions of this Article. Each party shall comply with any information or reporting requirements required by the other party's insurer(s), to the extent reasonably practicable.

## **ARTICLE XI**

### **WARRANTIES AND REPRESENTATIONS**

Each party represents that it has the authority under law to execute, deliver and perform this Agreement and to incur the obligations provided for under this Agreement, that its actions have been duly and validly authorized, and that it will adopt any and all resolutions or expenditure approvals required for execution of this Agreement.

## **ARTICLE XII**

### **ALTERNATIVE DISPUTE RESOLUTION PROCEDURE**

Any and all disputes between the parties, concerning any alleged breach of this Agreement, or arising out of or relating to the interpretation of this Agreement or the parties' performance of their respective obligations under this Agreement, shall be resolved by arbitration, and such procedure shall be the sole and exclusive remedy for such matters. Unless the parties agree upon a single arbitrator, the arbitration panel shall consist of three persons, including one person who is selected or recommended by the Authorizer Board, one person selected by the Academy Board and one person selected by NUL. The arbitration shall be conducted in accordance with the rules of the American Arbitration Association, with such variations as the parties and arbitrator unanimously accept. A judgment on the award rendered by the arbitrators may be entered in any court having appropriate jurisdiction.

## **ARTICLE XIII**

### **MISCELLANEOUS**

A. Sole Agreement. This Agreement supersedes and replaces any and all prior agreements and understandings between the Academy and NUL on the subject matter hereof.

B. Force Majeure. Neither party shall be liable if the performance of any part or all of this Agreement is prevented, delayed, hindered or otherwise made impracticable or impossible by reason of any strike, flood, riot, fire, explosion, war or act of God.

C. Notices. All notices, demands, requests and consents under this Agreement shall be in writing, shall be delivered to each party and shall be effective when received by the parties or mailed to the parties at their respective addresses set forth below, or at such other address as may be furnished by a party to the other party:

If to NUL:

New Urban Learning  
600 Antoinette  
Detroit, MI 48202

If to Academy:

Public School Academies of Detroit  
Contract Administrator  
P.O. Box 6349  
Plymouth, MI 48170

D. Severability. The invalidity of any of the covenants, phrases or clauses in this Agreement shall not affect the remaining portions of this Agreement, and this Agreement shall be construed as if such invalid covenant, phrase or clause had not been contained in this Agreement.

E. Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the parties and their respective successors and assigns.

F. Entire Agreement. This Agreement is the entire agreement between the parties relating to the services provided by the parties and the compensation to be paid for such services.

G. Non-Waiver. No failure to a party in exercising any right, power or privilege under this Agreement shall affect such right, power or privilege, nor shall any single or partial exercise thereof preclude any further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies of the parties under this Agreement are cumulative and not exclusive of any rights or remedies which any of them may otherwise have.

H. Governing Law. This Agreement shall be governed by and enforced in accordance with the laws of the state of Michigan.

The parties have executed this Agreement as of the day and year first above written.

NEW URBAN LEARNING

By: [Signature]

Chairperson, Board of Directors

Date: 8/20/08

PUBLIC SCHOOL ACADEMIES OF  
DETROIT

By: [Signature]

President, Board of Directors

Date: 8/20/08

DETROIT 28947-2 (03/370v)



**GRAND VALLEY  
STATE UNIVERSITY**

10 STRAIGHT STREET, S.W. • GRAND RAPIDS, MICHIGAN 49504  
CHARTER SCHOOLS • 616-331-2240 • FAX: 616-331-2085

October 28, 2008

C. Gregory Olszta  
Michigan Department of Education  
Public School Academy Program  
PO Box 30008  
Lansing, Michigan 48909

In re: Public School Academies of Detroit

Dear Greg:

Enclosed is a copy of the Contract Administration Agreement between Thompson Educational Foundation and the Public School Academies of Detroit dated August 28, 2008.

This document should be filed behind Schedule 7 of the Contract between Grand Valley State University Board of Trustees and the Public School Academies of Detroit.

Sincerely,

Kristin Middendorf  
Compliance Officer for Charter Schools  
Grand Valley State University

## CONTRACT ADMINISTRATION AGREEMENT

This Contract Administration Agreement (the "Agreement") is made and entered into as of the 28th day of August, 2008, by and between the **Thompson Educational Foundation** ("TEF"), a Michigan nonprofit corporation, and the **Public School Academies of Detroit**, a Michigan non-profit corporation (the "Academy") established and authorized to operate urban high school academies under a charter contract dated December 14, 2007, and as may be amended or restated, (the "Contract") issued by Grand Valley State University Board of Trustees (the "University Board") pursuant to Michigan's Revised School Code, Act No. 451 of the Public Acts of 1976, as amended, being MCL 380.1 to 380.1852 of the Michigan Compiled Laws (the "Code").

### RECITALS

- A. TEF is the entity that applied for the Contract and is the applicant pursuant to MCL 380.529. The Contract authorizes TEF to undertake the activities under MCL 380.529.
- B. TEF shall serve as the contract administrator between the Academy and any educational management company (an "EMC") contracted by the Academy to operate one or more urban high school academies as permitted under the Code and the Contract.
- C. The Academy and TEF desire to create an enduring relationship whereby they will develop educational excellence at the urban high school academies.

THEREFORE, the parties mutually agree as follows:

### ARTICLE I TERM

1.01. Term. This Agreement will become effective as of the date hereof and will remain in effect as long as the Contract is in effect.

### ARTICLE II SERVICES PROVIDED

2.01. The Academy. The Academy Board of Directors shall retain all policy making functions and other legal responsibilities that cannot be delegated by contract or otherwise with respect to its urban high school academies.

2.02. TEF as the Applicant. The Academy acknowledges that pursuant to MCL 380.529, TEF, the entity that applied for the Contract, is authorized by the Authorizer to do any of the following activities in furtherance of the Academy's urban high school academies:

Participate in the recruiting, interviewing, and nominating process for

Academy Board members.

2. Conduct an independent educational review, on a periodic basis, to determine whether the Academy is successful in implementing the educational goals set forth in the Contract.
3. Serve as contract administrator between the Academy Board and any EMC contracted to operate an urban high school academy.
4. Make recommendations to the Authorizer and the Academy on how to improve the urban high school academies' operations.

2.03. TEF as the Contract Administrator. TEF shall be the contract administrator between the Academy Board of Directors and the EMCs of the urban high school academies. TEF shall supervise and report to the Academy Board on certain administrative operations concerning the urban high school academies, including but not limited to the following:

1. TEF will investigate and report to the Board regarding the selection, performance, and termination of the educational management companies ("EMCs") of the urban high school academies. The selection of EMCs includes due diligence, investigation, and reporting on prospective EMCs' educational curriculum, capacity to operate an urban high school academy, past experience, personnel assessments, financial resources, and compliance with statutory and Authorizer regulations and requirements. The investigation and reporting of EMC performance to the Academy Board by TEF includes the review of the respective EMC's compliance with the statutory, Contract, EMC contract, and lease requirements for the educational performance, reporting requirements, and financial practices. Where performance reviews, as well as input from the University Board's Charter Schools Office and other sources, indicate concerns about terminating an EMC, including the non-renewal of an EMC contract, TEF will investigate and report on findings and recommendations to the Academy Board on whether to terminate an EMC.
2. TEF will manage the Academy's real property interests in accordance with applicable law and Academy policies and direction. Each EMC will be expected to manage their respective urban high school academy facility and real property on a day-to-day basis in accordance with the planned lease and EMC contract obligations. This includes repairs, improvements, maintenance, insurance, utilities, and security. TEF is to periodically review such day-to-day operation to promote compliance with applicable law, lease, EMC contract obligations, and sound business practices. Where an EMC fails to adequately manage the day-to-day operations of the facility, TEF will recommend corrective action to the Academy Board. Where requested by the Academy, TEF will also conduct due diligence on



potential new sites for future urban high school academies and assist the Academy in gathering information to prepare a request to the University Board for an additional urban high school academy.

- 3 TEF will work with the EMCs, University Board's Charter Schools Office, and any advisory committees for the urban high school academies to better achieve the Academies' educational goals. Upon the Academy's request, TEF will compare and contrast best practices of administrative or educational operations of one or more urban high school academies for Academy Board's consideration to recommend that another urban high school academy EMC adopt certain best practices which have proven to be successful.
- 4 TEF will coordinate the provision of all administrative, budgetary, educational, and financial documentation for consideration, review, or approval by the Academy Board. When there is more than one urban high school authorized, TEF will work to coordinate each individual urban high school academy's budget, financial, and other reporting requirements into an overall Academy-wide report for the Academy Board's consideration. The Academy and TEF expect that each EMC and the respective urban high school academy will be responsible for the urban high school academy's educational, teaching, and instructional programs; budget; financial reports; technology; janitorial; transportation; and food services. Upon the Academy's request, TEF will coordinate and provide recommendations on how the EMCs and urban high school academies may better and more efficiently operate, especially as more urban high school academies are authorized.

2.04. Reporting. TEF will report to the Academy on a regular basis, or as requested by the Academy, on its activities conducted pursuant to this Agreement and the results of those activities. In addition, TEF will prepare all materials required by the Academy to perform its duties under this Agreement, the Contract and the Code.

2.05 Compliance with the Contract. TEF agrees to perform its duties and responsibilities under this Agreement in a manner that is consistent with the Academy's obligations under the Contract. The provisions of the Contract shall supersede any competing or conflicting provisions in this Agreement

### **ARTICLE III RELATIONSHIP OF THE PARTIES**

3.01. Status of the Parties. TEF is not a division or any part of the Academy. The Academy is a body corporate and a governmental agency authorized under the Code and is not a division or a part of TEF. TEF is the entity that applied to the Authorizer for the Contract and

will also serve as the contract administrator between the Academy and any EMC contracted to operate the urban high school academies as permitted under the Code. No employee of TEF will be considered an employee of the Academy by either party.

#### **ARTICLE IV CONSIDERATION**

4.01. Reimbursement of Costs. The Academy will reimburse TEF for all actual costs incurred and paid by TEF in providing administrative services in an annual amount not to exceed one percent (1%) of the state school aid that the Academy receives, directly or indirectly, from the state of Michigan pursuant to the State School Aid Act of 1979, as amended. TEF will be responsible for all actual costs incurred and paid by TEF in providing administrative services in an annual amount above one percent (1%) of the state school aid that the Academy receives, directly or indirectly from the state of Michigan pursuant to the State School Aid Act of 1979, as amended. Such costs include, but are not limited to, rent or lease payments and salaries of TEF employees and fees charged and expenses incurred by the EMCs that are paid for by TEF. TEF will not charge an added fee. TEF may waive any reimbursement at its sole discretion.

#### **ARTICLE V TERMINATION OF AGREEMENT**

5.01. Termination. If the Contract is revoked or terminated, this Agreement shall automatically terminate on the same date the Contract is revoked or termination without further action of the parties; otherwise, this Agreement may only be terminated by the Academy and TEF mutually agrees in writing to terminate this Agreement.

5.02. Change in Law. If any federal, State or local law or regulation, court or administrative decision or Attorney General's opinion has a materially adverse effect on the ability of either party to carry out its obligations under this Agreement, such party, upon written notice, may request renegotiation of this Agreement. Such renegotiation will be undertaken in good faith.

5.03. Real and Personal Property. Upon termination, all real and personal property leased by TEF, or a TEF related entity, to the Academy will remain the real and personal property and leases of TEF or its related entity, and all other personal property purchased by TEF with TEF funds shall be the personal property of TEF.

#### **ARTICLE VI INDEMNIFICATION**

6.01. Indemnification of TEF. The Academy will indemnify, defend and save and hold TEF and all of its employees, officers, directors, subcontractors and agents harmless against any and all claims, demands, suits or other forms of liability (including reasonable attorneys fees and

costs) that may arise out of, or by reason of, any noncompliance by the Academy with the Contract, the Code, or any agreements, covenants, warranties or undertakings of the Academy in or made pursuant to this Agreement, and any misrepresentations or breach of the representations and warranties of the Academy in or made pursuant to this Agreement. In addition, the Academy will reimburse TEF for any and all legal expenses and costs associated with the defense of any such claim, demand or suit. The indemnification requirements of this Section 6.01 may be met by the purchase of insurance pursuant to Article VII below.

6.02. Indemnification of the Academy. TEF will indemnify, defend and save and hold the Academy and its officers and directors, harmless against any and all claims, demands, suits or other forms of liability (including reasonable attorneys fees and costs) that may arise out of, or by reason of, any noncompliance by TEF with any agreements, covenants, warranties or undertakings of TEF in or made pursuant to this Agreement, and any misrepresentation or breach of the representations and warranties of TEF in or made pursuant to this Agreement. In addition, TEF will reimburse the Academy for any and all legal expenses and costs associated with the defense of any such claim, demand or suit. The indemnification requirements of this Section 6.02 may be met by the purchase of insurance pursuant to Article VII below.

6.03. Limitations of Liabilities. The Academy will assert all immunities and statutory limitations of liability in connection with any claims arising from its operations.

6.04 Indemnification of Grand Valley State University. The parties acknowledge and agree that the University Board, Grand Valley State University and its members, officers, employees, agents or representatives are deemed to be third party beneficiaries for purposes of this Agreement. As third party beneficiaries, the parties hereby promise to indemnify and hold harmless the University Board, Grand Valley State University and its members, officers, employees, agents or representatives from all claims, demands, or liability, including attorney fees, and related expenses, on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other losses of any kind whatsoever and not caused by the sole negligence of Grand Valley State University, which arise out of or are in any manner connected with the University Board's approval of the urban high school academy application, the University Board's consideration of or issuance of a charter contract, the Academy's preparation for and operation of a public school, or which are incurred as a result of the reliance by Grand Valley State University and its Board of Trustees members, officers, employees, agents or representatives upon information supplied by the Academy or TEF, or which arise out of the failure of the Academy to perform its obligations under the Contract issued to the Academy by the University Board. The parties expressly acknowledge and agree that Grand Valley State University and its Board of Trustee members, officers, employees, agents or representatives may commence legal action against either party to enforce its rights as set forth in this Agreement.

6.06 Compliance with the Contract. TEF agrees to perform its duties and responsibilities under this Agreement in a manner that is consistent with the Contract issued by

the University Board. The provisions of the Contract shall supersede any competing or conflicting provisions contained in this Agreement.

## **ARTICLE VII INSURANCE**

7.01. Insurance Coverage. The Academy will maintain general liability insurance and umbrella insurance coverage in the amounts required by the Contract. The Academy will comply with any information or reporting requirements applicable to the Academy with its insurer(s). The Academy and TEF may meet their respective indemnification requirements of Section 6.01 by the purchase of insurance.

7.02. Workers' Compensation Insurance. Each party will maintain workers' compensation insurance as required by law, covering its respective employees.

7.03 Cooperation. Each party will, upon request, present evidence to the other that it maintains the requisite insurance in compliance with the provisions of this Article VII. Each party will comply with any information or reporting requirements required by the other party's insurer(s), to the extent reasonably practicable.

## **ARTICLE VIII WARRANTIES AND REPRESENTATIONS**

8.01. Representations and Warranties of TEF. TEF represents and warrants to the Academy the following:

(a) TEF is a duly organized nonprofit corporation in good standing and is authorized to conduct business in the state of Michigan.

(b) To the best of its knowledge, TEF has the authority under the Code and other applicable laws and regulations to execute, deliver, perform this Agreement, and to incur the obligations provided for under this Agreement.

8.02 Representations and Warranties of the Academy. The Academy represents and warrants to TEF the following:

(a) The University Board has issued the Contract which (i) authorizes the Academy to operate and receive the state allocation, federal allocation and other revenues; (ii) approves the Academy's education program and other activities provided by an EMC; and (iii) vests the Academy with all powers necessary and desirable for carrying out any activities contemplated in this Agreement.

(b) The Academy has the authority under the Code and other applicable laws and regulations to contract with TEF to perform the administrative and all other services under

this Agreement and execute, deliver and perform this Agreement, and to incur the obligations provided for under this Agreement.

(c) The Academy's actions have been duly and validly authorized, and the Academy will adopt any and all further resolutions or expenditure approvals required for execution of this Agreement.

## **ARTICLE IX MISCELLANEOUS**

9.01. Sole Agreement. This Agreement supersedes and replaces any and all prior agreements and understandings between the Academy and TEF.

9.02. Force Majeure. Notwithstanding any other sections of this Agreement, neither party will be liable for any delay in performance or inability to perform due to acts of God or due to war, riot, terrorism, civil war, embargo, fire, flood, explosion, sabotage, accident, labor strike or other acts beyond its reasonable control.

9.03. Governing Law. The laws of the state of Michigan will govern this Agreement, its construction, and the determination of any rights, duties and remedies of the parties arising out of or relating to this Agreement.

9.04. Agreement in Entirety. This Agreement constitutes the entire agreement of the parties.

9.05. Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original, but both of which will constitute one and the same instrument.

9.06. Official Notices. All notices and other communications required by the terms of this Agreement will be in writing and sent to the parties hereto at the addresses set forth below (and such addresses may be changed upon proper notice to such addressees). Notice may be given by: (i) certified or registered mail, postage prepaid, return receipt requested, (ii) facsimile (with confirmation of transmission by sender's facsimile machine) or (iii) personal delivery. Notice will be deemed to have been given two days after mailing or on the date of personal delivery or on the date of transmission of a facsimile if on a business day during normal business hours (or, if not, the first business day thereafter). The addresses of the parties are:

To

THOMPSON EDUCATIONAL FOUNDATION  
P.O. Box 6349  
Plymouth, Michigan 48170  
Facsimile: 734.357.2147

To:

THE PUBLIC SCHOOL ACADEMIES OF DETROIT  
Board President  
500 Woodward Avenue, Ste. 4000  
Detroit, Michigan 48226  
Facsimile: 248 433 7274

9.07. Assignment. This Agreement will not be assigned by either party.

9.08. Amendment. This Agreement will not be altered, amended, modified or supplemented except in a written document signed by authorized officers of both the Academy and TEF, and shall be effective as of the date of the last signature on the written amendment\_ unless disapproved by the University Board in accordance with the Contract

9.09. Waiver. No waiver of any provision of this Agreement will be deemed to be or will constitute a waiver of any other provision, nor will such waiver constitute a continuing waiver unless otherwise expressly stated.

9.10. Severability. The invalidity of any of the covenants, phrases or clauses in this Agreement will not affect the remaining portions of this Agreement, and this Agreement will be construed as if such invalid covenant, phrase or clause had not been contained in this Agreement. To the extent that any of the services to be provided by TEF are found to be an invalid delegation of authority by the Academy, such services will be construed to be limited to the extent necessary to make the services valid and binding.

9.11. Successors and Assigns. Except as limited by Section 9.07 above, this Agreement will be binding upon, and inure to the benefit of, the parties and their respective successors and assigns.

9.12. No Third Party Rights. This Agreement is made for the sole benefit of the Academy and TEF, and their successors and assigns. Except as otherwise expressly provided, nothing in this Agreement will create or be deemed to create a relationship between the parties to this Agreement, or either or them, and any third person, including a relationship in the nature of a third party beneficiary or fiduciary.

9.13. Survival of Termination. All representations, warranties and indemnities made in this Agreement will survive termination of this Agreement.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date and year first above written.

**THOMPSON EDUCATIONAL FOUNDATION,**  
a Michigan non-profit corporation

By: John B. Cleary  
Its: D.V.P. - Finance & Real Estate

**PUBLIC SCHOOL ACADEMIES OF**  
**DETROIT,**  
a Michigan non-profit corporation

By: Edith Paul  
Its: President

DL DONFIELD 28947-3 7842/8-6

## CONTRACT ADMINISTRATION AGREEMENT

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### **ARTICLE III RELATIONSHIP OF THE PARTIES**

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will also serve as the contract administrator between the Academy and any EMC contracted to operate the urban high school academies as permitted under the Code. No employee of TEF will be considered an employee of the Academy by either party.

#### **ARTICLE IV CONSIDERATION**

4.01. Reimbursement of Costs. The Academy will reimburse TEF for all actual costs incurred and paid by TEF in providing administrative services in an annual amount not to exceed one percent (1%) of the state school aid that the Academy receives, directly or indirectly, from the state of Michigan pursuant to the State School Aid Act of 1979, as amended. TEF will be responsible for all actual costs incurred and paid by TEF in providing administrative services in an annual amount above one percent (1%) of the state school aid that the Academy receives, directly or indirectly from the state of Michigan pursuant to the State School Aid Act of 1979, as amended. Such costs include, but are not limited to, rent or lease payments and salaries of TEF employees and fees charged and expenses incurred by the EMCs that are paid for by TEF. TEF will not charge an added fee. TEF may waive any reimbursement at its sole discretion.

#### **ARTICLE V TERMINATION OF AGREEMENT**

5.01. Termination. If the Contract is revoked or terminated, this Agreement shall automatically terminate on the same date the Contract is revoked or termination without further action of the parties; otherwise, this Agreement may only be terminated by the Academy and TEF mutually agrees in writing to terminate this Agreement.

5.02. Change in Law. If any federal, State or local law or regulation, court or administrative decision or Attorney General's opinion has a materially adverse effect on the ability of either party to carry out its obligations under this Agreement, such party, upon written notice, may request renegotiation of this Agreement. Such renegotiation will be undertaken in good faith.

5.03. Real and Personal Property. Upon termination, all real and personal property leased by TEF, or a TEF related entity, to the Academy will remain the real and personal property and leases of TEF or its related entity, and all other personal property purchased by TEF with TEF funds shall be the personal property of TEF.

#### **ARTICLE VI INDEMNIFICATION**

6.01. Indemnification of TEF. The Academy will indemnify, defend and save and hold TEF and all of its employees, officers, directors, subcontractors and agents harmless against any and all claims, demands, suits or other forms of liability (including reasonable attorneys fees and

costs) that may arise out of, or by reason of, any noncompliance by the Academy with the Contract, the Code, or any agreements, covenants, warranties or undertakings of the Academy in or made pursuant to this Agreement, and any misrepresentations or breach of the representations and warranties of the Academy in or made pursuant to this Agreement. In addition, the Academy will reimburse TEF for any and all legal expenses and costs associated with the defense of any such claim, demand or suit. The indemnification requirements of this Section 6.01 may be met by the purchase of insurance pursuant to Article VII below.

6.02. Indemnification of the Academy. TEF will indemnify, defend and save and hold the Academy and its officers and directors, harmless against any and all claims, demands, suits or other forms of liability (including reasonable attorneys fees and costs) that may arise out of, or by reason of, any noncompliance by TEF with any agreements, covenants, warranties or undertakings of TEF in or made pursuant to this Agreement, and any misrepresentation or breach of the representations and warranties of TEF in or made pursuant to this Agreement. In addition, TEF will reimburse the Academy for any and all legal expenses and costs associated with the defense of any such claim, demand or suit. The indemnification requirements of this Section 6.02 may be met by the purchase of insurance pursuant to Article VII below.

6.03. Limitations of Liabilities. The Academy will assert all immunities and statutory limitations of liability in connection with any claims arising from its operations.

6.04 Indemnification of Grand Valley State University. The parties acknowledge and agree that the University Board, Grand Valley State University and its members, officers, employees, agents or representatives are deemed to be third party beneficiaries for purposes of this Agreement. As third party beneficiaries, the parties hereby promise to indemnify and hold harmless the University Board, Grand Valley State University and its members, officers, employees, agents or representatives from all claims, demands, or liability, including attorney fees, and related expenses, on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other losses of any kind whatsoever and not caused by the sole negligence of Grand Valley State University, which arise out of or are in any manner connected with the University Board's approval of the urban high school academy application, the University Board's consideration of or issuance of a charter contract, the Academy's preparation for and operation of a public school, or which are incurred as a result of the reliance by Grand Valley State University and its Board of Trustees members, officers, employees, agents or representatives upon information supplied by the Academy or TEF, or which arise out of the failure of the Academy to perform its obligations under the Contract issued to the Academy by the University Board. The parties expressly acknowledge and agree that Grand Valley State University and its Board of Trustee members, officers, employees, agents or representatives may commence legal action against either party to enforce its rights as set forth in this Agreement.

6.06 Compliance with the Contract. TEF agrees to perform its duties and responsibilities under this Agreement in a manner that is consistent with the Contract issued by

the University Board. The provisions of the Contract shall supersede any competing or conflicting provisions contained in this Agreement.

## **ARTICLE VII INSURANCE**

7.01. Insurance Coverage. The Academy will maintain general liability insurance and umbrella insurance coverage in the amounts required by the Contract. The Academy will comply with any information or reporting requirements applicable to the Academy with its insurer(s). The Academy and TEF may meet their respective indemnification requirements of Section 6.01 by the purchase of insurance.

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7.03. Cooperation. Each party will, upon request, present evidence to the other that it maintains the requisite insurance in compliance with the provisions of this Article VII. Each party will comply with any information or reporting requirements required by the other party's insurer(s), to the extent reasonably practicable.

## **ARTICLE VIII WARRANTIES AND REPRESENTATIONS**

8.01. Representations and Warranties of TEF. TEF represents and warrants to the Academy the following:

(a) TEF is a duly organized nonprofit corporation in good standing and is authorized to conduct business in the state of Michigan.

(b) To the best of its knowledge, TEF has the authority under the Code and other applicable laws and regulations to execute, deliver, perform this Agreement, and to incur the obligations provided for under this Agreement.

8.02. Representations and Warranties of the Academy. The Academy represents and warrants to TEF the following:

(a) The University Board has issued the Contract which (i) authorizes the Academy to operate and receive the state allocation, federal allocation and other revenues; (ii) approves the Academy's education program and other activities provided by an EMC; and (iii) vests the Academy with all powers necessary and desirable for carrying out any activities contemplated in this Agreement.

(b) The Academy has the authority under the Code and other applicable laws and regulations to contract with TEF to perform the administrative and all other services under

this Agreement and execute, deliver and perform this Agreement, and to incur the obligations provided for under this Agreement.

(c) The Academy's actions have been duly and validly authorized, and the Academy will adopt any and all further resolutions or expenditure approvals required for execution of this Agreement.

## **ARTICLE IX MISCELLANEOUS**

9.01. Sole Agreement. This Agreement supersedes and replaces any and all prior agreements and understandings between the Academy and TEF.

9.02. Force Majeure. Notwithstanding any other sections of this Agreement, neither party will be liable for any delay in performance or inability to perform due to acts of God or due to war, riot, terrorism, civil war, embargo, fire, flood, explosion, sabotage, accident, labor strike or other acts beyond its reasonable control.

9.03. Governing Law. The laws of the state of Michigan will govern this Agreement, its construction, and the determination of any rights, duties and remedies of the parties arising out of or relating to this Agreement.

9.04. Agreement in Entirety. This Agreement constitutes the entire agreement of the parties.

9.05. Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original, but both of which will constitute one and the same instrument.

9.06. Official Notices. All notices and other communications required by the terms of this Agreement will be in writing and sent to the parties hereto at the addresses set forth below (and such addresses may be changed upon proper notice to such addressees). Notice may be given by: (i) certified or registered mail, postage prepaid, return receipt requested, (ii) facsimile (with confirmation of transmission by sender's facsimile machine) or (iii) personal delivery. Notice will be deemed to have been given two days after mailing or on the date of personal delivery or on the date of transmission of a facsimile if on a business day during normal business hours (or, if not, the first business day thereafter). The addresses of the parties are:

To

THOMPSON EDUCATIONAL FOUNDATION  
P.O. Box 6349  
Plymouth, Michigan 48170  
Facsimile: 734.357.2147

To:

THE PUBLIC SCHOOL ACADEMIES OF DETROIT  
Board President  
500 Woodward Avenue, Ste. 4000  
Detroit, Michigan 48226  
Facsimile: 248 433 7274

9.07. Assignment. This Agreement will not be assigned by either party.

9.08. Amendment. This Agreement will not be altered, amended, modified or supplemented except in a written document signed by authorized officers of both the Academy and TEF, and shall be effective as of the date of the last signature on the written amendment\_ unless disapproved by the University Board in accordance with the Contract

9.09. Waiver. No waiver of any provision of this Agreement will be deemed to be or will constitute a waiver of any other provision, nor will such waiver constitute a continuing waiver unless otherwise expressly stated.

9.10. Severability. The invalidity of any of the covenants, phrases or clauses in this Agreement will not affect the remaining portions of this Agreement, and this Agreement will be construed as if such invalid covenant, phrase or clause had not been contained in this Agreement. To the extent that any of the services to be provided by TEF are found to be an invalid delegation of authority by the Academy, such services will be construed to be limited to the extent necessary to make the services valid and binding.

9.11. Successors and Assigns. Except as limited by Section 9.07 above, this Agreement will be binding upon, and inure to the benefit of, the parties and their respective successors and assigns.

9.12. No Third Party Rights. This Agreement is made for the sole benefit of the Academy and TEF, and their successors and assigns. Except as otherwise expressly provided, nothing in this Agreement will create or be deemed to create a relationship between the parties to this Agreement, or either or them, and any third person, including a relationship in the nature of a third party beneficiary or fiduciary.

9.13. Survival of Termination. All representations, warranties and indemnities made in this Agreement will survive termination of this Agreement.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date and year first above written.

**THOMPSON EDUCATIONAL FOUNDATION,**  
a Michigan non-profit corporation

By: John B. Cleary  
Its: J.B. - Finance & Real Estate

**PUBLIC SCHOOL ACADEMIES OF**  
**DETROIT,**  
a Michigan non-profit corporation

By: Edith Park  
Its: President

UNIONFIELD 28547-7 786218-6



## **SCHEDULE 8**

### **UNIVERSITY PREPARATORY SCIENCE & MATH (UPSM): SCHOOL INFORMATION AND SITE CONFIGURATION**

See enclosed notebook.

**SCHEDULE 9**

**UNIVERSITY PREPARATORY ACADEMY (UPA):  
SCHOOL INFORMATION AND SITE CONFIGURATION**

See enclosed notebook.

**SCHEDULE 10**

**HENRY FORD ACADEMY: SCHOOL FOR CREATIVE STUDIES (HFA):  
SCHOOL INFORMATION AND SITE CONFIGURATION**

See enclosed notebook.

## **SCHEDULE 11**

### **TERM OF CONTRACT**

The Academy is authorized to operate the following Schools on the dates set forth below:

- (1) University Preparatory Science and Math: **December 14, 2007;**
- (2) University Preparatory Academy: **July 1, 2008;** and
- (3) Henry Ford Academy: School for Creative Studies: **February 13, 2009.**



## Miscellaneous Documents

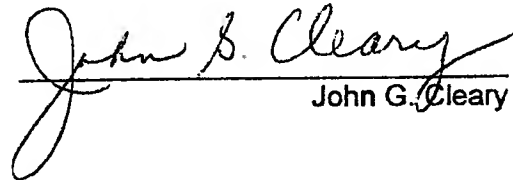
**THOMPSON EDUCATIONAL FOUNDATION  
P.O. BOX 6349  
PLYMOUTH, MICHIGAN 48170  
(734) 414-0153**

December <sup>5<sup>th</sup></sup> 2008

Grand Valley State University  
10 Straight Street, SW, 205 FSS  
Grand Rapids, MI 49504

To Whom It May Concern:

The Thompson Educational Foundation has committed financially to construct or renovate the buildings for the Henry Ford Academy School for Creative Studies.

  
John G. Cleary

BLOOMFIELD 38030-4 957765

**Thompson Educational**  
**FOUNDATION**

November 21, 2008

Kristin Middendorf, Compliance Officer  
Charter Schools Office  
Grand Valley State University  
10 Straight Street, SW, 205 FSS  
Grand Rapids, MI 49504

Dear Kristin,

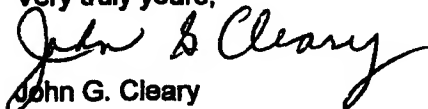
On September 30, 2008, TEF-SIX, LLC entered into a 19-year lease with Argonaut Building Master Tenant, LLC to occupy four floors, gymnasium, and required parking spaces for the Public School Academies of Detroit's Henry Ford Academy: School for Creative Studies Middle School and High School. This lease space is approximately 133,000 sq. ft. and will be in the completely renovated Argonaut Building in Detroit. This lease commences on July 17, 2009.

Also, on September 30, 2008, TEF-SIX entered into a sublease agreement with Creative Urban Education (CUE) to occupy the aforementioned space in the Argonaut Building. This lease commences on July 17, 2009.

TEF-SIX, LLC will be responsible for paying all base rent payments, while Creative Urban Education will be responsible for paying the operating costs. These operating costs, to be paid by CUE, are estimated to be approximately \$200,000 per year. The annual lease costs to TEF-SIX, LLC will be @1,035,366 per year.

If you require any additional information, please contact me at 248.921.4117.

Very truly yours,

  
John G. Cleary

Board Resolution 07- 23  
Comply with Contract

Public School Academies of Detroit

Detroit, Michigan

Resolution of the Public School Academies of Detroit Board of Directors

Upon motion of: Jean Baker

Seconded by: David Bing

BE IT RESOLVED, that the Academy Board affirms its ability to comply with all the terms and conditions of the charter contract with Grand Valley State University.

Secretary's Certification:

I certify that the Public School Academies of Detroit Board duly adopted the foregoing resolution at a properly noticed open meeting held on the 23<sup>rd</sup> day of October, 2007, at which a quorum was present.

By:

  
The Board Secretary



INTERNAL REVENUE SERVICE  
P. O. BOX 2508  
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: OCT 6 - 2005

NEW URBAN LEARNING  
600 ANTOINETTE  
DETROIT, MI 48202-0000

Employer Identification Number:  
38-3502936  
DLN:  
17053001786095  
Contact Person:  
STEVE D DUVAL ID# 31535  
Contact Telephone Number:  
(877) 829-5500  
Public Charity Status:  
170(b)(1)(A)(vi)

Dear Applicant:

Our letter dated October 2000, stated you would be exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code, and you would be treated as a public charity, rather than as a private foundation, during an advance ruling period.

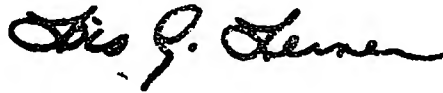
Based on the information you submitted, you are classified as a public charity under the Code section listed in the heading of this letter. Since your exempt status was not under consideration, you continue to be classified as an organization exempt from Federal income tax under section 501(c)(3) of the Code.

Publication 557, Tax-Exempt Status for Your Organization, provides detailed information about your rights and responsibilities as an exempt organization. You may request a copy by calling the toll-free number for forms, (800) 829-3676. Information is also available on our Internet Web Site at [www.irs.gov](http://www.irs.gov).

If you have general questions about exempt organizations, please call our toll-free number shown in the heading between 8:30 a.m. - 5:30 p.m. Eastern time.

Please keep this letter in your permanent records.

Sincerely yours,



Lois G. Lerner  
Director, Exempt Organizations  
Rulings and Agreements

Letter 1050 (DO/CG)

STATE OF MICHIGAN  
DEPARTMENT OF ATTORNEY GENERAL



MIKE COX  
ATTORNEY GENERAL

P.O. Box 30214  
LANSING, MICHIGAN 48909

April 10, 2008

James M. Chalifoux, Esq.  
Dickinson Wright  
500 Woodward Avenue, Suite 4000  
Detroit, MI 48226-3425

Dear Mr. Chalifoux:

Re: Merger of University Preparatory Academy (T 38878) into  
The Public School Academies of Detroit

The Attorney General's office has received your request to review the proposed merger of the above-captioned organizations. Please be advised that the Department of Attorney General does not object to the merger provided that approval of the merger is granted by the Board of Trustees of Grand Valley State University.

The non-objection is based upon the facts as you have represented them in materials disclosed to the office and is limited to that set of facts and to the named organizations. Additionally, because this organization will cease to exist as a result of the proposed merger, please be advised that the review performed by our office has been solely for purposes of determining compliance with the provisions of the Dissolution of Charitable Purpose Corporations Act, MCL 450.251 et seq. and in no way should be construed as an approval or review of the proposed merger for purposes of determining compliance with any other state or federal law.

Very truly yours,

Tracy A. Sonneborn  
Assistant Attorney General  
Charitable Trust Section  
(517) 373-1152

TAS/db

s: ct correspondence/2008/apr/dapr/38878

Thompson Educational  
FOUNDATION

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December 7, 2007

Kristin Middendorf  
Compliance Officer  
Charter Schools Office  
Grand Valley State University  
10 Straight Street, SW, 205 FSS  
Grand Rapids, MI 49504

Dear Kristin,

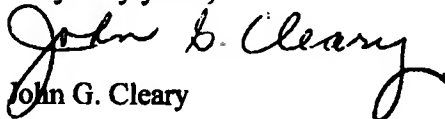
Per your e-mail request of December 6, 2007, a description of the second UPA Elementary School is as follows:

TEF-FOUR, LLC purchased, in September 2007, a 72,000 three-story parking garage to house the second elementary (UPA K-5 II). Approximately 14,000 square feet is unusable due to the existing concrete ramps, which will be simply sectioned off as storage areas. A 8,600 square foot addition, to house the gymnasium and school entrance connector, will also be constructed to attach to the former parking garage building, which will bring the total usable square footage to approximately 67,000. The location of the UPA K-5 II will be at 435 Amsterdam in Detroit, which is three blocks northeast of the UPA High School in the New Center area. Construction began in November 2007 and will be completed by June 2008, with school classes beginning in September 2008. The total cost of the UPA K-5 II is estimated to be \$10,000,000, which includes all hard and soft costs.

I have also included renderings and a site plan to further help you with your understanding of this facility.

Please do not hesitate to contact me for more information regarding this facility. My office number is 734.414.0153.

Very truly yours,

  
John G. Cleary

Enclosure

Cc: Peter H. Webster, Esq.

Board Resolution 07-22  
New Urban Learning  
University Prep Science and Math  
Urban High School Academy

Public School Academies of Detroit

Detroit, Michigan

Resolution of the Public School Academies of Detroit Board of Directors

Upon motion of:  
Seconded by:

*AS*  
BE IT RESOLVED, that the Academy Board approves and endorses New Urban Learning ~~and~~ the management company for the University Prep Science and Math urban high school academy, subject to approval of the authorizer Grand Valley State University and the Michigan Department of Education.

Secretary's Certification:

I certify that the Public School Academies of Detroit Board duly adopted the foregoing resolution at a properly noticed open meeting held on the 14<sup>th</sup> day of August, 2007, at which a quorum was present.

By:   
The Board Secretary

## SCHEDULE 10-1

### EDUCATIONAL GOALS AND PROGRAMS

#### A. Mission

*Henry Ford Academy: School for Creative Studies will be an exemplary school that prepares all students for college and career success. We will be deeply embedded in the community and become a key element in the ongoing revitalization of the city of Detroit. HFA: SCS will draw on the strength of broad community, corporate, individual and philanthropic partnerships to create an integrated learning community centered in historic landmark buildings and extending out into the community.*

Creative Urban Education (CUE), is a 501(c)3 formed in 2007. As a partnership between the College for Creative Studies (CCS) and Henry Ford Learning Institute (HFLI), CUE leverages CCS's position as one of the country's premiere art and design colleges, and HFLI's leadership in creating urban schools to serve students in Detroit with an innovative, fully-aligned K-12 school system: Henry Ford Academy: School for Creative Studies (HFA: SCS). HFA: SCS opened with a middle and high school in September 2009, and in September 2012 will add grades K-5 at a new site, completing the K-12 vision for HFA: SCS. HFLI will be responsible for operating the elementary grades. The purpose of this updated charter amendment is to reflect the addition of grades K-5 to the HFA: SCS system, with a school design and educational program based on the highly acclaimed Henry Ford Academy, located at The Henry Ford in Dearborn, Michigan. This K-12 school system is envisioned as an aligned and exemplary school program blending coursework in the creative studies with the academic approach of the Henry Ford Academy Model.

The College for Creative Studies (formerly known as the Center for Creative Studies) is an integrated learning community located in Detroit. A private, fully accredited college, CCS enrolls 1,400 students pursuing Master of Fine Arts and Bachelor of Fine Arts degrees. CCS also offers visual art opportunities for learners of all ages through its Community Arts Partnerships and Continuing Education programs. The College provides a dynamic learning environment where students explore issues of art and design, and the culture in which they exist, while preparing for careers in the professional world. CCS has one of the world's most recognized programs in transportation design and places more graduates in the automotive industry than any other school.

Henry Ford Learning Institute (HFLI) is an innovative nonprofit organization dedicated to the belief that education reform cannot take place within an educational system that isolates students and teachers from the community and separates teaching and learning from the real world. HFLI envisions a future where public education becomes a truly public endeavor, engaging a community to create vibrant educational models, leveraging underutilized local resources, and removing boundaries between learning and the real world. To this end, HFLI is developing a

national network of small schools that focus on college and career preparation through strong academics, integrated exposure to future opportunities, and transition support for post-secondary success.

As collaboration between these educational leaders, HFA: SCS:

- Serves families in the City of Detroit, and helps fuel community transformation in the Northend/Central neighborhood.
- Serves grades 6-12 with a middle/high school that occupies a significant portion of the A. Alfred Taubman Center for Design Education ("Taubman Center," formerly known as the Argonaut Building), sharing space with the College for Creative Studies.
- Will serve grades K-5 in the former Doty Elementary School (10225 3rd St, Detroit, MI 48202). First opened in 1909, Doty Elementary stands as a prime example of the arts and crafts style of architecture prevalent in the early part of the last century and retains the grace and feel of that era. Once renovated, the facility and its 21<sup>st</sup> century school design will ensure HFA:SCS student safety and will support our educational program with 26 grade specific learning studios, 2 art studios, 3 design/prototyping studios, 1 technology/media center, a dining hall, a student support suite (Social Worker, Title I and Special Ed), an administration/reception area, a large exhibition hall, a conference room, a small formal exhibition space (former music room), moderate gym, teacher collaboration spaces on each floor, and outside PE/recreation areas.
- Maintains no selective admission requirements or tuition charges. HFA: SCS will enroll approximately 60 students per grade in grades K-5, 136 students per grade in grades 6-8 and 120 students per grade in grades 9-12. Maximum enrollment is projected at 1,240 students for the full K-12 system. HFA: SCS will conduct a lottery in the event that more applications are submitted than seats available.
- Provides an extended school day and extended school year, as well as summer and after-school programs for acceleration and remediation support.
- Incorporates the HFA curriculum model framework and school design as the foundation for the educational experience of all students, parents, teachers, and community partners.
- Utilizes the authentic methods of instruction and assessment developed at the original Henry Ford Academy, an 15-year-old charter high school in Dearborn, Michigan; with an exemplary record of success in educating urban students; successfully implemented in the HFA: SCS middle/high school in Detroit and at two additional high schools (San Antonio and Chicago); and will be developmentally appropriate for K-5. (*see Exhibit 10-1.a for a summary of HFA: Dearborn's performance*).
- Places all high school students in structured, supervised internships with a variety of business and community organizations throughout Detroit and the Metropolitan region.
- Ensures that all graduates are prepared for successful careers and admitted to at least one college or university, and will instill in students in grades K-5 the expectation of college/career readiness among young children prior to matriculation to HFA: SCS middle/high school.

- Operates with the backing and support of Ford Motor Company, The Henry Ford, the Thompson Educational Foundation, the Bill & Melinda Gates Foundation, the Michigan Department of Education Charter School Program, the W.K. Kellogg Foundation, and multiple other corporate, philanthropic, cultural, and community partners.

## **B. Educational Plan**

### **1) The Need for New Educational Options**

From both an education reform and workforce development standpoint, high school is a pivotal point in a young person's life. The academic and skill-based foundation that is formed - or more commonly, not formed - for young people during this time in their lives impacts their successful transition to postsecondary education, job training, and the workplace. Ensuring that more students make this transition successfully is essential if our nation is to remain a global leader in the creation of high wage, high skill jobs and industries. Though the economic argument calling for high school reform is clear, for many the need for reform is simply a moral one. People inside and outside of education continue to ask: "How is it just that one's zip code has more to do with access to an excellent education than virtually any other factor?" Others are equally concerned about the long-term economic impact of sustained educational inequity. Rarely have business and moral imperative been so aligned in support of a cause. In either case the call to action is unmistakable and change is long overdue.

Many students in Detroit are not making a successful transition to college and the workforce. Graduation rates are similar to other struggling urban districts (DPS lists its graduation rate at 62% for 2010, with a annual dropout rate of 19%). In addition, many graduating students are not adequately prepared to succeed in college or a competitive job market. Using the State of Michigan's "old" cut scores, in 2011 only 33% of Detroit juniors passed the MME in Reading, and only 17% passed the Math portion (compared to 63% and 52%, respectively, of students across the state). This means that a majority of students who graduate from Detroit Public Schools are not prepared to start college, nor prepared for careers, without taking remedial classes.

Parents in Detroit are looking for new options, as evidenced by declining enrollments in Detroit Public Schools, long waiting lists at high performing charter schools, and the growing numbers of Detroit children attending public schools in the nearby suburbs. Parents are looking for schools where their children will be safe, schools that can provide an academically rigorous education, with the support to help every child be successful and graduate. And, more than just graduating, they're looking for schools that prepare their children to be able to pursue ambitious college and career goals.

While it is a common belief that many students in Detroit are not prepared for high school, we also enroll middle school students at HFA: SCS in Detroit and find that they too are not prepared to meet the rigorous demands of a 6-12 Henry Ford Academy. This leads us to conclude that we must offer an aligned elementary school experience; HFLI believes and prescient research indicates that this will increase the long-term success of students. The elementary school will

focus first on producing students who: can read, do math and write; retain a love of learning and excitement for exploration; appropriately master the Five Developmental Areas; are comfortable and capable with Design Thinking; and who attend an elementary school that is all around high-quality and focused on project-based learning.

Fifth-grade students will automatically matriculate to the HFA: SCS middle school as a part of a complete K-12 system located in the Northend/Central neighborhood and focused on graduating at least 90% of students and sending at least 90% of those graduates on to postsecondary education. While any student of appropriate age who lives in the State of Michigan will be eligible to apply, we anticipate that the new HFA elementary campus will serve mostly young children from Detroit's Northend/Central neighborhood, where approximately one in three children lives in poverty and, because of school closings and a lack of transportation, there is a compelling need for children to have new schools of choice located within walking distance from their home.

To address an immediate need for high quality educational options and to better prepare students for the HFA middle school, we will fully populate grades K-5 during the 2012-2013 school year. Students will be selected by open lottery with additional preference being provided to siblings of existing students in the HFA: SCS system or those siblings selected in the annual lottery.

## **2) HFA: SCS: An Innovative Design**

Drawing on the Henry Ford Academy model, which has a proven track record of success in Dearborn (where 64% of the students currently come from Detroit), HFA: SCS provides a rigorous, college-prep curriculum, with significant supports to help all students be successful. In addition, HFA: SCS embeds learning in the community, so that students are regularly exposed to, develop relationships with, and work alongside professionals from a range of different fields and careers. These connections to the real world help make learning more relevant to students, and help them to start building, while they're still in elementary, middle and high school, the skills they'll need to be successful as working adults and contributing citizens.

It is clear in today's world that one of the critical differentiating factors for student success in college and employment is a young person's ability to respond to challenging problems with thoughtful, creative strategies and innovative outcomes. High schools that are committed to preparing their graduates to navigate in and create for the 21<sup>st</sup> century global community must begin, as the CCS mission states, "to nurture the creativity that is vital to the enrichment of modern culture." HFA: SCS has developed an "Innovative Learning Culture" to do just that by incorporating an explicit and structured focus on creativity and innovation in the many diverse elements that are core to a complete school design.

Students at HFA: SCS engage in a problem solving process as practiced in the field of design as a central part of their educational experience, learning the kinds of skills that business and community want to see in students: the ability to communicate effectively and work as part of a productive, goal-oriented team; the ability to see old problems in new ways, and to take initiative and leadership in solving them; the commitment to act ethically, and to embrace their responsibilities as citizens of diverse local and global communities; and the resolve to continue learning throughout their lives.



HFA: SCS middle/high school students benefit from the following specific opportunities related to design and innovation:

- Shared access to specialized CCS art/design studios and equipment
- Classes in art/design co-taught by HFA: SCS and CCS instructors
- Opportunity to pursue Accelerated Curriculum Experience (ACE) pathway in art/design to incorporate essential elements of CCS' Foundations program
- Formal recognition that completion of the ACE art/design pathway meets CCS requirements for its Foundation program and would earn college credit at CCS
- Graduation requirement that all students successfully complete course-work that leads to substantive competencies in art and design methods, media and process
- Student competencies in art/design demonstrated with a formal portfolio of work that is reviewed by CCS staff, a senior art show, and required public discussion of one's work
- Graduate students serving as Teaching Assistants and mentors to students
- Summer programs in art and design
- After school studio time, with the possibility of seniors having private studio space
- Shared exhibition spaces throughout the Taubman Center building
- Potential to complete Senior Practicum with CCS faculty, administration or outreach programs such as Community Arts Partnerships (CAP)

All of our existing HFAs have an intentional program to prepare students for success in college and the career of their choice. That won't be any different for our elementary students and families. What will be different at the elementary level is how we engage in that path of learning. Our priorities are to ensure that all students leave elementary school with a solid foundation in their core subject areas, are prepared to approach problem solving with an explicit set of skills and strategies and—most importantly—with a clear love of learning.

As a result, our elementary school will promote a strong foundation in reading, writing and mathematics literacy, with a goal of all children meeting grade level expectations in these core skill areas by the completion of third grade. To strengthen their development in these critical areas, students will have the same reading, same writing and same math teacher for multiple--years in a row. Students will also experience science, social studies, art/design and physical health and wellness daily.

Core to the HFA approach to teaching and learning at all grade levels is the use of hands-on, project-based learning: students develop strong content knowledge and skills by working on structured projects that drive their learning and connect it to real-world experiences. Grade-level communities (pairs of grades K-1, 2-3, and 4-5) will come together for shared major projects and other common learning opportunities, supporting smoother transitions for all and better personalization for students with differing readiness and achievement levels. Related learning experiences outside the formal walls of school and with community partners will ensure that students gain exposure to and learn from adults from a variety of career paths, demographic groups, and personal interests.

While most schools and educational programs claim to address critical thinking and creative problem solving, HFAs hone in on these areas, equipping students with the skills and strategies associated with design thinking. HFA elementary students will begin developing their skills and

readiness for problem solving through a series of structured design challenges – challenges centered around problems that students might experience in their daily lives.

The Henry Ford Academy Model provides a framework through which to deliver a network of strong community partnerships that support and extend student learning and growth. This framework ensures that learning at HFA: SCS is embedded in the community, providing students with opportunities to connect their learning to the real world, and to form positive relationships with adults and mentors in the broader community. Four elements help articulate this unique framework: *Partners in Learning*, *Public School in a Public Place*, *The Work Place as the Learning Space*, *Teaching and Learning for Authentic Achievement*.

*Partners in Learning.* *The school is the center of a tightly-knit, growth oriented community in which the local business and cultural and community organizations play a substantial role.*

In the neighborhood surrounding the middle/high school is Henry Ford Health System's corporate headquarters (ranked as the top integrated health care system in Michigan and sixth in the nation in a 2004 national survey, serving more than 1 million residents in southeast Michigan), and Henry Ford Hospital (A 903-bed tertiary care hospital, education and research complex in Detroit's New Center Area. Its Emergency Department is a Level 1 trauma center.) Also in its midst sits a commercial district to the north and a university district to the south (which includes the original CCS campus and Wayne State University) and the Cultural Center, housing such cultural gems as the Detroit Institute of the Arts, the Charles H. Wright Museum of African American History and the New Detroit Science Center.

HFA: SCS benefits as well from ongoing partnerships with Ford Motor Company and The Henry Ford; these partnerships have, among other things, enriched the curriculum at the original Henry Ford Academy in Dearborn, and provided numerous opportunities for student internships and job shadowing. HFA: SCS is developing community partnerships that bring these and other community resources, such as the range of neighboring organizations listed above, into student learning in many ways, including: teachers will collaborate with staff at community organizations to design special field projects; professionals will be invited in to present "career talks"; and students will interview staff from local organizations, and participate in job shadowing and field placements.

To ensure that all families in the area are aware of, and don't miss out on the opportunity to attend HFA: SCS and its K-12 continuum of high quality education, HFA: SCS conducts an extensive community engagement process, with support from HFLI. The addition of the elementary school campus offers the opportunity to expand our relationships to include new partners like the Central Detroit Christian Community Development Corporation and other organizations on outreach.

*Public School in a Public Space.* *Students learn amidst the rich and diverse resources of a public organization, interacting daily with adults and developing personal management capacity and maturity.*

Through the collaboration of CCS and HFLI, HFA: SCS is positioned to offer its students access to an incredible array of resources from the business, non-profit, and educational worlds. Students have access to libraries, gallery space, and events and programming on the original CCS campus. In addition, the HFA: SCS middle and school is housed in A. Alfred Taubman Center for Design Education, which is home for a concentrated learning model that promotes an extremely rich and diverse educational environment for creative and talented students of design of all ages. In addition to HFA: SCS, the Taubman Center houses a second CCS campus for many studio-based college design programs, the new CCS graduate program, a significant expansion of college student housing and an apartment for artists-in-residence, leased space for other compatible non-profit organizations, and creativity accelerator office space for start-up commercial creative-based businesses in collaboration with the efforts of Detroit Renaissance.

By attending school in such a public space, HFA: SCS middle and high school students have opportunities to interact with an impressive array of professionals and other successful adults, both within the Taubman Center and the original CCS campus, and the greater Detroit downtown area. Students are expected to demonstrate maturity and personal responsibility regardless of where their learning experience takes them, whether it is on a visit the University Cultural Center, or on the original CCS campus.

Grades K-5 will be located at Third and Glynn, the former Doty Elementary on edge of the historic Boston-Edison district—less than a mile from the HFA: SCS middle/high school. The elementary school's fifth grade students have confirmed enrollment to the middle/high school, so the nearby location is ideal. Siblings of accepted students will receive priority access to enrollment in grades in which there are openings.

A formerly vacant building, the redevelopment of this historic structure and neighboring properties will give a shuttered school building new life as a vibrant elementary school and a source of pride for the neighborhood where great change is under way.

*The Work Place as the Learning Space. Students learn alongside working adults, interacting with them, observing them meeting the expectations of their jobs, and developing related work competencies for success.*

In middle school, HFA: SCS brings in local professionals to give “career talks,” and students begin to actively explore career interests. Later, students begin to plan and participate in job shadowing, where they will follow an adult mentor through their daily routine. Even when not engaged in one of these formal activities, students observe adults in the building going about their jobs.

High school students also participate in structured field placements as a central and integrated part of the learning in every core academic course. At their field placements, students work alongside professionals to gather information and perspectives, see how particular companies and organizations are addressing real-world issues, and have the chance to test out ideas for solutions to problems. In addition, the 4-year structure that culminates in the Senior Mastery Process provides frequent opportunities for students to experience the work place as their learning space. *(For a detailed chart of Senior Mastery Process, see Exhibit 10-1.b)*

HFA: SCS will incorporate career experience and exploration activities into the K-5 education programs that are developmentally appropriate and which reinforce essential skills and core values associated with success.

*Teaching and Learning for Authentic Achievement.* Centered on a deep commitment to all students attaining high standards of personal and academic achievement, the Academy curriculum provides students with a structured approach to the development of deep, significant knowledge that emerges from thoughtful, discipline-based inquiry and that addresses the value of that knowledge beyond the classroom.

Too often, schoolwork is disconnected from what happens in the real world, both in terms of content, and how student achievement and competence is measured. At HFA: SCS, meaningful collaboration with and use of community resources are integrated into the curriculum at every level. Students are consistently asked to grapple with complex issues that are important in the real world; to research those issues by conducting interviews and field studies and by accessing local resources; to gain an understanding of the perspectives and needs that local leaders in the business, non-profit and government sectors have related to those issues; to collaborate with experts in the field to devise new and creative solutions to existing problems; to share their work with members of the community; and to have their work assessed using real world measures of competence developed in concert with experts in the field. At every step of the way, students gain understanding of what is considered “good work” in the real world.

### **C. Educational Goals**

The Academies’ educational goals are derived from its organizational purpose and mission. The academic and non-academic (behavioral) goals provide for the proposed program and describe desired outcomes that we hope to achieve. The Academies, together with the community and others, will provide students in the city of Detroit with opportunities and experiences to achieve academic and personal success in learning environments that are intellectually challenging, motivating, supporting and sustaining.

At the elementary school level these goals are reflected as follows:

- Goal 1:** The percentage of students proficient on the MEAP will be higher than that of the selected peer group (currently Detroit Public Schools).
- Goal 2:** Using the University Charter Schools Office MEAP regression model, the Academy will score no lower than one-half of a standard deviation below the line of best fit after the first three (3) years of operation. The Academy’s regression score will also be compared to schools with similar racial demographics.
- Goal 3:** The Academy will administer the Northwest Evaluation Association (NWEA) Measures of Academic Progress (MAP) and use it to assess annual growth in reading, language usage and math, in grades that are a part of the University Charter Schools Office program. Scores will be compared to national and University Charter School Office norms.

At the middle/high school level these goals are reflected as follows:

- Goal 1:** Every student will develop a portfolio of art and design work that is used to evaluate competencies essential to art/design.
- Goal 2:** Every student will complete and successfully defend a Senior Mastery project.
- Goal 3:** The percentage of students proficient on the MEAP will be higher than that of the selected peer group (currently Detroit Public Schools).
- Goal 4:** Using the University Charter Schools Office MEAP regression model, the Academy will score no lower than one-half of a standard deviation below the line of best fit after the first three (3) years of operation. The Academy's regression score will also be compared to schools with similar racial demographics.
- Goal 5:** The Academy will administer the Northwest Evaluation Association (NWEA) Measures of Academic Progress (MAP) and use it to assess annual growth in reading, language usage and math, in grades that are a part of the University Charter Schools Office program. Scores will be compared to national and University Charter School Office norms.
- Goal 6:** As provided by the Michigan Merit Exam, the average ACT composite score at the Academy will be higher than that of selected peer (currently Detroit Public Schools). The Academy's score will also be compared to schools with similar racial demographics.
- Goal 7:** Using the University Charter Schools Office ACT regression model, the Academy will score no lower than one-half of a standard deviation below the line of best fit after the first three (3) years of operation. The Academy's regression score will also be compared to schools with similar racial demographics.

#### **D. Transportation**

Like schools of choice, HFA: SCS does not provide transportation for students from their residences to the school. HFA: SCS will work diligently with the students and their families to facilitate transportation through discussions with the Michigan Department of Transportation, the Detroit Department of Transportation and the SMART system to pinpoint public transportation routes that service the new school and help students map and develop the most direct routes to school. HFA: SCS may also approach MDOT, DDOT and SMART to assess the possibility of adding routes to the existing ones to serve students using the transportation hub at Renaissance Center. In addition, the school will work to facilitate carpooling information among the families. Students walking to the elementary school campus will navigate traffic at neighboring corners with the assistance of crossing guards. Once HFA: SCS students reach driving age, the school will implement a driving/parking process for students that will include on-site secure parking by school-approved permit.

## **E. Food Service**

Food service to the existing HFA: SCS campus is currently provided under a contract with Sodexho, which will also service the new elementary campus. HFA: SCS works directly with Sodexho to assure that food preparation, storage and eating areas comply with all state and federal guidelines and mandates for public school food service. In addition, these food-related areas certainly meet standards for providing meals to our students who qualify to receive free and reduced lunches as part of the National School Lunch Program (currently 68% of HFA: SCS middle and high school students qualify). This federally assisted meal program operates in public and nonprofit private schools and residential child care institutions and provides nutritionally balanced, low-cost or free lunches to children each school day. Rather than establishing a costly and redundant food preparation area, Sodexho will prepare high-quality meals at the Taubman Center and deliver them for warming and service in the designated eating areas at the elementary school campus.

## **F. Security**

The safety and security of the middle and high school students is of top concern to HFLI and CCS. This priority is reflected in state-of-the-art and high-tech security plans which include technology, equipment and highly trained staff for the elementary school campus, and not only for the specifically designated middle and high school facilities at the Taubman Center, but all shared and common spaces, as well.

**Elementary School.** The school's main entrance will be off Glynn, directly adjacent to identified school drop off and pick up zones for parent/guardians; there is no need for students to cross streets or move through unsupervised areas after leaving vehicles. A single point of arrival and departure will be maintained for all students, parents and visitors, and monitored by office administrative staff and external security cameras.

Visitors will be checked in at front desk, be required to wear visible identification badges and check out prior to leaving. Staff will have separate, secure entrance adjoining the secure parking lot, key card access required to both parking lot and building entrance. Inside the school, a key card system will secure individual spaces.

Student outdoor recreational spaces are surrounded by 8-10 foot fence and there are no gates or entrances from the street; access is only from doors inside the school and located on first floor facing 3<sup>rd</sup> Street. External cameras focus on all sides of building and include immediately adjoining surface areas considered on school property.

As is the plan and practice at the middle and high school, the elementary school leadership team will be in continuous radio contact and security is the responsibility of school staff (the principal, teachers, etc.) as there is no dedicated security staff. The elementary school will also solicit the advice and support of CCS security team, and has the ability to call on them in times of crisis or high demand. The security plan will evolve and be updated based on identified need and advances in technology.

**Middle/High School.** The security plan for the Taubman Center is constantly being updated based on new and advanced technology available. 184 cameras are located both inside and outside the building, all of which digitally record activity for future review. All cameras are monitored 24 hours a day at a central location. Supplementing the camera system is a highly trained and qualified contract force of security staff employed by CCS in areas outside of the designated school space. Security staff is in constant radio contact with the security office and director and Voice Over IP Communication (VOIP) provides an additional instant and constant communication method. The building has a 911 mass instant messaging system for security alerts. This security effort, including supervision of all systems and staff, is led by the CCS Director of Campus Security Garrett Ochalek and supported by Gordon Gilbert, Assistant Director of Safety & Security, who is stationed at the Taubman Center. In addition, the middle and high school facilities within the Taubman Center have separate lock-down capabilities should school leaders deem it necessary. Conditions for lock-down include potential threats from inside or outside, inclement weather drills or actual weather emergencies, fire or other building issues, and others. The security team has worked with school leaders to develop protocols under which lock-downs might occur and routinely practices for such occurrences.

In order to further control student movement within the Taubman Center, specific "capture areas" for middle and high school students, staff and visitors have been designated. All entrances are monitored by security staff. Students and staff have the ability to move within the "school block," the facilities designated specifically for the school from the first to fourth floors of the Taubman Center once they enter through the capture areas. Elevators within the school may be accessed only with properly coded staff badges. All other elevators within the building have separate coded access. Visitors to the school facilities are required to enter through the secured entrances, provide picture ID to sign in and out, and wear visitor ID badges while inside the building.

Access to the rest of the building outside of the designated school areas is strictly controlled with security badge access. All staff and students are issued, and required to wear daily, school lanyards and badges with pictures and names clearly displayed.

To further enhance security and make the middle and high school students more visible, students wear uniforms (shirts with a designated color for each grade level, black pants/skirts, and solid colored shoes) so security and other building staff may see if a student does somehow gain access to a part of the building in which they should not be.

In addition to the technology devices/systems and highly trained security staff present in the building, all building inhabitants, from the CCS staff to other tenants, are made aware of student uniforms, approved student movement patterns, and the rules governing building access so that they may simply observe that students are moving within appropriate building spaces.

HFA: SCS recognizes the need to account for exceptions to the access specifications mentioned above. For instance, students who arrive significantly late to school or who must leave early due to sickness or other approved reasons will follow approved procedures for arrival and departure,

as will their families. Students participating in school-sanctioned before- and after-school activities are supervised by school staff and the security office will be informed in advance of these situations. This information is contained within the student handbook and is part of the orientation program for HFA: SCS students and families.

#### **G. Co-Curricular and Extra-curricular Activities**

HFA: SCS expects that many students will spend significant periods of time in the school building before and/or after formal school hours, and knows that structured programming is very important to support the continued growth and development of the whole child.

HFA: SCS is committed to working with students and their families to determine their programming interests and needs, and to support a range of co-curricular and extra-curricular activities to meet those needs. Actual offerings are determined by student interest, and what parents and the school can support with human and financial resources.

Anticipated offerings students in grades K-5 include\*:

- Student Council
- Safety patrol
- Tutoring/homework club
- Clubs/activities based on student input, such as art club, chess club, theater arts, Science Olympiad, Academic Games, Tech Tools for Learning, Writer's Corner

Current offerings for students in grades 6-12 include\*:

- National Honor Society/National Junior Honor Society
- Chess Club
- All About Me
- Yearbook
- Robotics
- Mustang Green Team
- Student Council
- Ambassadors
- Peer Mediation
- A Stitch in Time
- Dance
- Mustangs Skate
- Skate Club
- Art Club
- College for Creative Studies' Creative Arts Series: Photography, Advanced Art, Painting, Animation, Wearable Art



- Athletics, including Basketball (boys and girls), Softball (girls), Golf (boys and girls), Cheerleading (boys and girls) and Volleyball (girls)

\* Note: HFA: SCS anticipates a “ramp-up” period while the school is in its first years, and that extra-curricular offerings will expand in range as the enrollment of the school expands.

In addition to current activities, HFA: SCS is very interested in offering and supporting the following additional extra-curricular and co-curricular opportunities for middle/high school students:

- After school studio time with CCS faculty and grad student mentors
- Academic tutoring partnerships with CCS and other local universities
- Before and after school PREP (Promoting Readiness for Educational Progress). The PREP program creates structured, supervised time for students to work independently or get needed academic support.
- Summer Programs in Art and Design. Through its Community Arts Partnerships (CAP) program, CCS currently offers a variety of summer programs for high school students and art educators, including Camp Portfolio, Summer Exploratory and Art at the Center. HFA: SCS will encourage students to take advantage of these existing opportunities and will also explore the possibility of developing new programming tailored specifically to the needs and interests of HFA: SCS students.
- Student and/or school exchange programs. These might include:
  - Foreign exchange, similar to the existing exchange program between HFA-Dearborn and a high school in Germany which includes visits to one another's schools, as well as short internships in the host country.
  - School-to-School exchange with other schools in the HFA network.
  - School-to-School exchange with other art and design high schools.

Exhibit 10-1 A  
Henry Ford Academy Student Performance Data

Henry Ford Academy is a fourteen-year-old charter high school enrolling, on average, 500 students in grades 9-12. Located on the campus of The Henry Ford in Dearborn, Michigan, it is the nation's first four-year charter high school founded and governed in partnership with public education (Wayne County Public Schools), a world-class cultural institution (The Henry Ford Museum), and a global corporation (Ford Motor Company). The school shares the nine-acre Henry Ford Museum and ninety-acre Greenfield Village with employees, volunteers and 1.5 million visitors. Excellent Schools Detroit's 2011 Report Card highlighted the highest performing high schools serving Detroit students based on ACT scores and identified Henry Ford Academy as having the highest average ACT score of any open enrollment school serving Detroit students, as well as a high cumulative graduation rate.

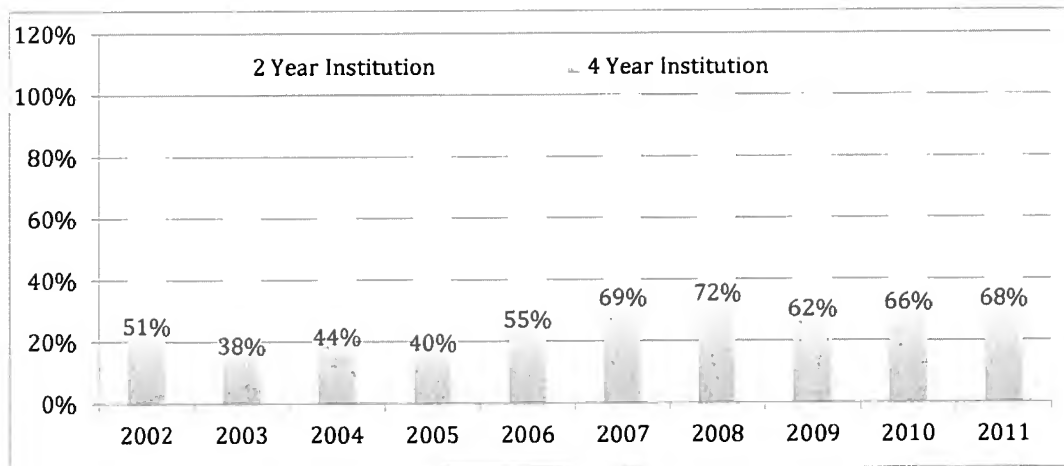
**Student Demographics and Diversity** Students are chosen via random lottery; entering 9<sup>th</sup> graders have attended more than 75 different public, charter, private, or parochial middle schools, or were home-schooled, giving them a wide range of previous educational experiences. Almost 64% of students come from Detroit; the remainder comes from 27 communities in southeast Michigan (Oakland & Wayne counties). Racial diversity is 78% African American, 16% Caucasian American, 2% Hispanic American, 2% Asian American less than 1%, 1% Middle-Eastern American and 0% Native American 2% of students are multi-ethnic. 11% of students receive special education services and 62% are eligible for reduced/free lunch.

**Henry Ford Academy Graduation and College Acceptance**

Henry Ford Academy: Graduation

	Class of 2001	Class of 2002	Class of 2003	Class of 2004	Class of 2005	Class of 2006	Class of 2007	Class of 2008	Class of 2009	Class of 2010	Class of 2011
<b>% of Seniors that Graduate</b>	89%	95%	95%	97%	91%	95%	94%	92%	93%	94%	91%

## Henry Ford Academy: College Acceptance



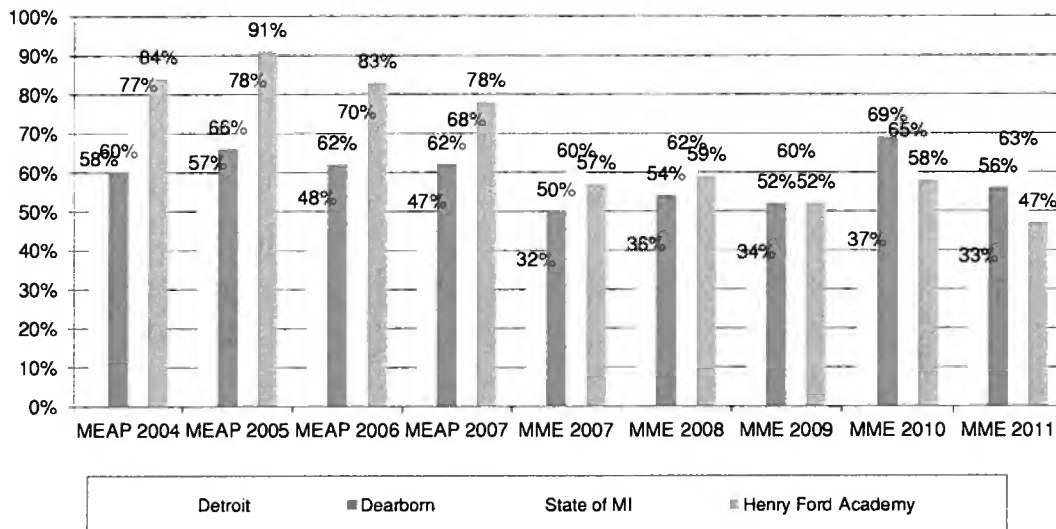
\*2001 data did not differentiate between 2-year and 4-year institutions  
(88% acceptance rate among 83 total graduates)

\*2001 data did not differentiate between 2-year and 4-year institutions (88% acceptance rate  
among 83 total graduates)

**Scholarship Funding** The percentage of HFA students receiving college scholarships and grants has increased from 20% for the Class of 2001 to 45% for the Class of 2011. College scholarships and grants awarded to the Class of 2011 totaled \$1,041,814. We expect this record of success continues with HFA: SCS students.

**Michigan Educational Assessment Program (MEAP) and Michigan Merit Exam (MME)** MEAP scores for Academy students evidence significant success when compared to their peers in Detroit (where most Academy students come from). Included on the next page are MEAP scores for the classes of 2003 through 2007, and MME scores for 2007-2011.

## Henry Ford Academy: MEAP and MME Reading Scores



Henry Ford Academy: MEAP and MME Math Scores

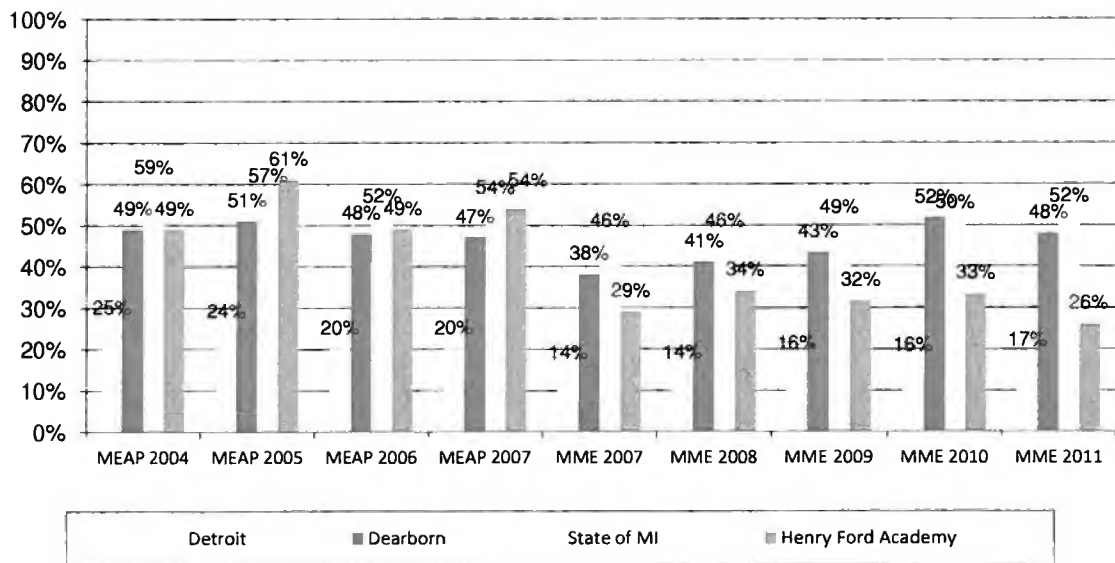
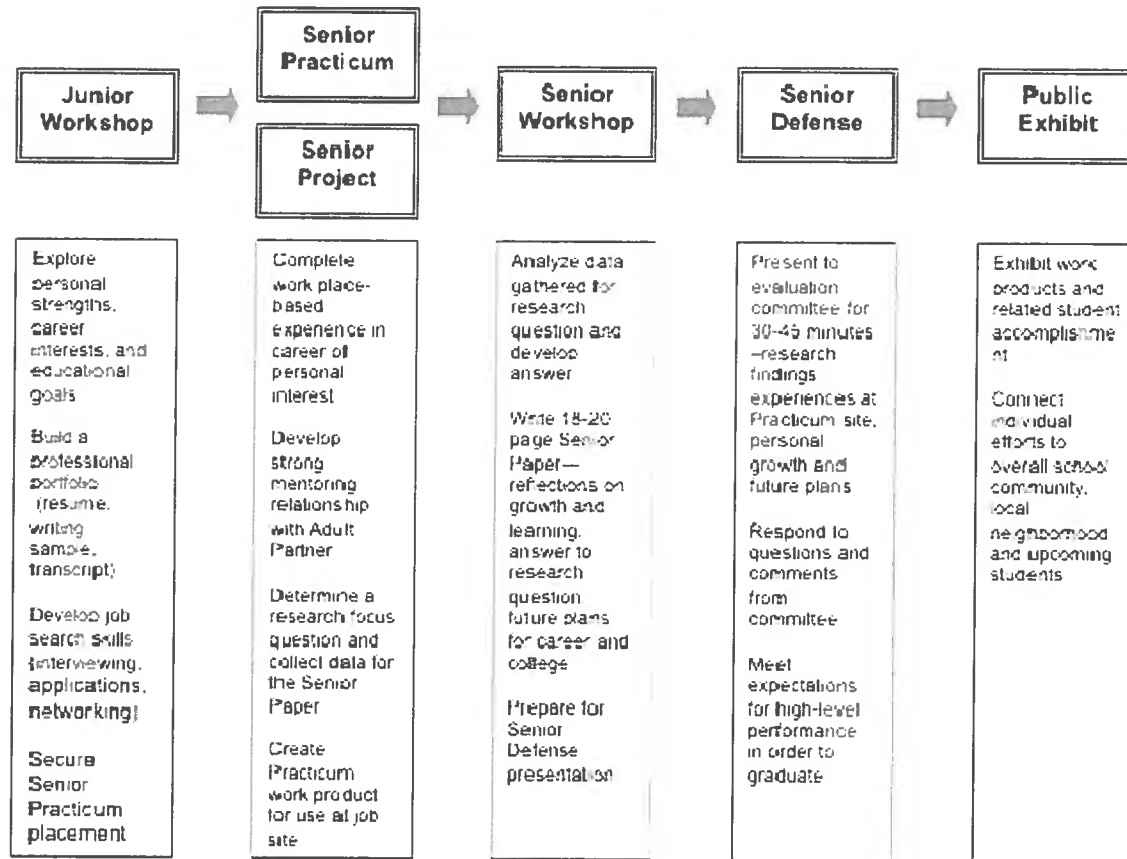


Exhibit 10-1.B

**HENRY FORD ACADEMY SENIOR MASTERY PROCESS**



## SCHEDULE 10-2

### CURRICULUM

#### A. Overview

HFA: SCS will use the Henry Ford Academy Model as its curricular. Based on substantive research in effective curriculum, instruction and school design, the HFA Model centers on teaching and learning for authentic achievement -- namely that meaningful learning occurs when students engage in *constructing knowledge* through *disciplined inquiry* that has *value beyond the classroom*. The key educational principles below are incorporated into the overall design for each course:

- High expectations for all students
- Differentiated instruction to ensure success for all students
- Alignment to state and national standards
- Research-based strategies for effective teaching and learning, in particular project-based learning

This framework is critical to the design and implementation of the curriculum, and promotes student mastery of the Five Developmental Areas, which organize the overall scope and sequence of knowledge and skills: 1) Academic Content, 2) Technology, 3) Communication, 4) Personal Development, and 5) Thinking & Learning. (See *Exhibit A* for a more detailed description of the Five Developmental Areas.)

#### B. Scope and Sequence

The HFA: SCS 6-12 School Framework has three aligned stages: middle school, early high school, and late high school. The Framework is designed to provide a comprehensive orientation at the beginning of each stage, and then the structure and experiences to prepare students for the successive stage. For example, students entering the middle school attend a one-week orientation, where they meet teachers and classmates, and are paired with a high school junior or senior "buddy." During the week, they learn the important expectations and cultural norms of the school, take diagnostic tests in math and reading, and begin to become exposed to college and career opportunities. Their parents also attend a one-day orientation to learn about school culture and expectations. Similar week-long orientations help students transition to each new stage. (For a detailed description of the 6-12 School Framework, see *Exhibit B*).

The HFA: SCS Scope and Sequence includes three years of Math, Science, Social Studies and English/Language Arts at the middle school level. The high school program includes four years of required math, science and English/language arts, three years of social studies, and two years of a foreign language, with additional electives in each of these areas.

All students will also take courses that introduce key knowledge and skills that support the overall theme of the school: creativity and innovation. Students will also take an art class every year, and complete the three-course Senior Mastery Process. (For the complete 6-12 Scope and Sequence, see *Exhibit C*).

### Accelerated Curriculum Experience (ACE)

HFA: SCS views all of its students as gifted and talented. Therefore, the HFA: SCS Curriculum will be designed so that teachers have multiple opportunities for differentiation and individualization of instruction within core classes. HFA: SCS will identify students' academic preparation, strengths and weaknesses through diagnostic testing, grades, class performance, and observation by and interactions with staff. Identified HFA: SCS students will be able to participate in the Accelerated Curriculum Experience (ACE) sequence, in which they take an accelerated version of the relevant grade level core class. Students who meet the outcomes expectations for that course may move into the next grade-level course for that discipline, opening up their future schedule in the upper grades of high school for more advanced coursework, often at local college campuses. An advantage of this approach is that these students are not removed from the overall student population; this enhances the development of their non-academic relationships and skills and ensures they meet the same high standards, but to do so at their own pace. Currently about 25% of students at HFA-Dearborn participate in the ACE program.

### Strategies for Remediation

Just as accelerated courses are included in the core curriculum, extra support for students is integrated into every student's schedule in the following ways:

- Academic coaching—structured time during the day to complete homework, meet with team for collaborative projects, receive tutoring, make up tests, get additional help from older students or mentors, or complete work that must be done on-site
- Forum—daily “homeroom” with structured time to address personal and academic goals, support the development of personal responsibility skills and strategies, host grade and school level meetings, and engage in community service
- Individualized instruction with differentiation and personal choice when and where possible, and
- PREP time—supervised time before and after school for students to complete homework and get academic or personal support

In addition, all students are given a diagnostic test in reading and math before the school year starts but after lottery numbers are assigned and students enroll for the year. Based on these initial results, students who demonstrate need for remedial support would be assigned to take “preview courses” that help them learn core concepts in math, reading and writing ahead of time, so they can experience success in the complementary core math and/or ELA courses.

### Advancement Via Individual Determination (AVID)

AVID is a nationally recognized program with a proven track record of providing the necessary academic and social support for minority, rural, low-income and other students without a college-going tradition in their families. It is an in-school academic support program for grades 4-12 that prepares students for college eligibility and success. AVID supports the development of core study and learning skills often not present in students who are struggling in school. HFA: SCS will use the program to enhance core and elective courses in the curriculum, especially in the development and reinforcement of basic literacy and numeric skills, and in the instruction of effective learning and studying strategies. AVID will be available to all students, but will be

highlighted for those struggling to meet academic expectations. Those students will receive additional support in study skills from the AVID program during Academic Coaching times.

### **C. College and Career Preparation**

Beginning in the sixth grade, students will engage in structured college visits with their class or Forum, research and explore potential colleges/universities and careers of interest, participate in coursework that links to future options, interact with guest speakers and participate in workplace-based job shadowing. Through extensive learning in the community and a learning environment located in the Argonaut Building, students in all grades will gain exposure to and a chance to work alongside professionals in variety of careers often not observed by students in urban areas.

In high school, discussions with families about financial planning for college, separation concerns, and strategies to support their student will also begin. Juniors and seniors continue their growth with the Senior Mastery Process which stresses career exploration and preparation, and Senior Transitions which directly addresses college preparation through a variety of group and individual experiences. Currently under development, Senior Transitions will be composed of workshops for students that address college expectations and culture, admissions requirements, applications, financial aid and planning, personal finance, family separation issues and skills for continued personal development. HFA: SCS will also conduct family workshops to support caregivers in this process as well. Upperclassmen will also participate in individually scheduled college visits and career exploration visits to sites of their choice.

Students measure their progress on important college and career prep milestones using a College/Career Readiness Report Card. The report card is then reviewed twice each year in meetings that include the student, a parent, and the Forum leader.

### **D. Creativity and Innovation Focus**

Commenting on the new global economy and its requirements for high-skill workers, the New Commission on the Skills of the American Workforce said: *"The best employers the world over will be looking for the most competent, most creative, and most innovative people on the face of the earth and will be willing to pay them top dollar for their services. This will be true not just for the top professionals and managers, but up and down the length and breadth of the workforce."* (Tough Choices or Tough Times, 2007).

HFA: SCS is committed to preparing those competent, creative, and innovative people. Central to this effort is an integration of focus on creativity and innovation at three key levels:

1. Learning outcomes
2. Learning engagements (the experiences, both formal and informal, that create opportunities for students and staff learning), and
3. Learning environment (the space in which students and staff learn)



## **Learning Outcomes**

Goals for students in the areas of creativity and innovation include:

- Apply relevant knowledge from different disciplines to understand complex problems, and to develop effective solutions
- Understand how complex issues affect various individuals and groups differently, and develop empathy for others' needs and perspectives
- Generate new, imaginative solutions to problems
- Work effectively as a team
- Demonstrate effective leadership skills
- Demonstrate flexibility and ability to adapt quickly to new situations
- Receive and incorporate feedback and ideas from others
- Demonstrate awareness of one's role in local and global communities
- Act ethically and responsibly
- Grow through self-reflection

## **Learning Engagements**

Design and innovation-based problem solving serves as the core organizational approach for the school, as demonstrated by:

- Deep, sustained project work with the design and innovation process as a central element integrated into every core academic course
- Unique cross-disciplinary projects to promote collaboration with community partners
- A Foundations in Innovation course taken at the beginning of middle school and then again at the beginning of high school.
- Students who take at least one art/design course each year.
- Teacher orientation and induction that includes a "Foundations in Innovation": workshop
- Instructional staff who receive ongoing professional development in areas of creativity and innovation and
- The ability for students to enroll in courses in art and design co-taught by CCS and HFA: SCS staff

## **Learning Environment**

The physical space itself will support creativity and innovation, as demonstrated by:

- Dedicated studio workshop and exhibitions spaces
- Student access to CCS studio space, and technology and design resources
- Students who see the work of CCS students and faculty on a daily basis
- Shared HFA: SCS and CCS public exhibition spaces
- Privileged student access to three CCS libraries: The Art and Design Library, the Visual Resources Library, and the Color and Materials Library
- Visiting artist programs, like the Woodward and Toyota Lecture series, and the continual series of talks, visits, and artist-in-residence programs that individual CCS departments organize and host, and
- The opportunity to observe and work with CCS artists-in-residence

## **E. Distinctive Elements**

The following distinctive elements will enrich the unique HFA: SCS curriculum: The Senior Mastery Process; Learning in the Community; Academic Coaching; Forum; Inter-disciplinary Projects; Integrated Technology Plan.

### ***Senior Mastery Process***

In the broadest sense, the Senior Mastery Process (SMP) describes the organizational framework that encompasses the full range of college and career preparation activities that begin in the 6<sup>th</sup> grade and culminate in the Senior Defense. However, there are four main parts to the SMP that occur in the junior and senior years of high school that we will highlight here: Junior Workshop, Senior Practicum, Senior Workshop and Senior Defense. In these four steps, students prepare for and complete an extended exploration of their career interests, design and conduct a substantial action research project, engage in an internship associated with that research, and present their findings in a formal defense. All students must successfully complete the SMP to graduate.

A variety of required experiences and deliverables are included in the SMP. Students:

- Engage in self-assessment of skills, interests, abilities
- Explore possible career interests
- Develop a portfolio of professional documents
- Demonstrate job search skills
- Complete an intensive work-place practicum in a career area of interest
- Conduct an action research project
- Create a work product that has real value to the practicum site or mentor
- Presentation of research and learning in the field at a formal defense, with committee review of work quality

*(For a detailed explanation of the Senior Mastery Process, see Exhibit B)*

### ***Learning in the Community***

Learning in the Community is a central part of the curriculum. As mentioned before, HFA: SCS will share space with CCS, and several major organizations with a diverse work force and wide range of skill sets and professional contexts. Opportunities for interacting with talented college students, faculty, and other professionals will abound. In addition, the curriculum will integrate learning in the community into every core course, taking students out of the building to access resources in the wider world. . Students will go on field trips, interview members of community and host them for talks on careers or important issues. Students will work with experts in field on real-world projects. On special projects, those experts will host students for focused field placements, where they will advise students on projects, and provide feedback on their work. In the process, students will learn that their work is connected in meaningful ways to the real world: they will watch how professionals and other successful adults fulfill their responsibilities and engage in solving real-world problems, and they gain sense of their role in local and global communities.

### ***Academic coaching***

Academic Coaching serves as a time in students' schedules where they can work to meet individual needs. For some, this is a time to gain additional tutoring on a difficult assignment. For others, time to make up missed tests or class work. Students can also use the time to meet with small project groups, attend college information sessions, meet with their counselor or Forum Leader, or simply work on pending homework or other ongoing project work. Because the entire school shares common time for Academic Coaching, students and teachers are able to meet with whomever they need; use science lab, project lab or art/design studio space and equipment; and improve the overall sense of an integrated learning community.

### ***Forum***

Forum is the HFA Model version of what is commonly called Advisory. Students meet daily for a short period of time in small groups (approximately 12-14 students) with their Forum Leader who serves in that capacity from the time the student enters until graduation. During that time, the Forum works through a number of regular activities to support students' connection to each other and the Forum Leader, strengthen their skills at managing their personal work loads and goal setting, and meet as needed with their whole class or school (middle school students would meet as a "school" and high school students would meet as a "school.") At least twice each year, Forum leaders will review College/Career Readiness Report Cards with each student and their parents, making sure the student is on track to meet his/her learning goals and graduation requirements.

### ***Inter-disciplinary projects***

The HFA: SCS curriculum will be centered on a series of significant inquiry-based and project-based learning experiences for students. Designed to address the core standards and benchmarks as well as incorporate a significant opportunity for individual student choice, projects will explore complex issues from a wide range of perspectives. These projects will, by nature, integrate content and skills from multiple disciplines. Specifically, the curriculum is written to include identified partner course projects (math/science and language arts/social studies), grade-level projects (bringing together multiple disciplines and interests) and school-wide projects. Drawing on the unique nature of the partnership, projects for HFA: SCS teachers and students will frequently involve substantial attention to art/design, incorporate the resources and participation of local community partners, and be developed through a structured adaptation process that brings together CCS instructional staff and HFLI curriculum development personnel.

### ***Integrated Technology Plan***

Technology and the ability to use it effectively, creatively, and ethically will be central to all learning at HFA: SCS. Technology is a required set of tools that helps students and teachers engage more effectively in the research, communication, problem-solving, collaboration, and the other important learning processes that occur in every class. In particular, HFA: SCS sees substantial alignment between the outcomes for students in the areas of innovation and creativity, and those for technology: all of the phases of the design process are facilitated and deepened with the use of appropriate technologies. In addition, the fields of design and innovation are at the leading edge of

not only producing new technologies, but, more importantly, integrating existing technologies into the very fabric of their work process. HFA: SCS's goal is to develop students skilled in art and design and prepared, if they so choose, to pursue further studies and careers in these fields. A commitment to deliberate and comprehensive integration of new technologies is therefore central to achieving the HFA: SCS mission.

### **Goals for Students**

HFA: SCS will prepare students to develop and demonstrate technological competence in the following ways:

- Students will develop fluency using a variety of technologies, including:
  - standard computer applications
  - digital collaboration technologies (such as wikis, blogs, resource depositories)
  - digital content creation technologies (photos, video, multi-media and internet publishing, etc.)
  - media tools for learning and teaching (video, podcasts, videoconference)
  - simple to complex automated machines
  - hand-held science probes and data collection devices
  - microscopes, scales and other measurement tools, and other "scientific" technology
  - graphing calculators
- Students will be able to evaluate a variety of options and select the tool(s) most appropriate for the task at hand. They will:
  - Be able to troubleshoot and understand how to learn new technologies
  - Use technology and critical thinking skills to plan and conduct research, manage project, solve problems, and make decisions
  - Create and explore models and simulations to help understand complex issues and predict future possibilities
  - Collaborate, locally and at a distance, with peers and experts in the field, sharing information and perspectives, creating and publishing documents, and solving problems
  - Use technology to effectively and persuasively communicate knowledge and ideas
  - Publish work to sites that allow others to use their work as a resource.
  - Communicate with learners from other cultures and locations as a way to develop deeper cross-cultural awareness and understanding
  - Become leaders in digital citizenship, practicing and advocating for responsible, ethical use of technology

### **Technology Infrastructure:**

In order to accomplish these goals, HFA: SCS will establish a physical and instructional infrastructure that includes:

- One-to-one computing environment
- Dedicated technology labs
- High-speed internet connections (wired and wireless)
- Shared access to CCS studios and equipment (graphic design, animation, digital imaging and production, etc.)
- Technology explicitly integrated into every core class
- Ongoing professional development for teachers to ensure their fluency and comfort with a range of new technologies and
- Art and Design courses co-taught with CCS and HFA: SCS staff

### **Development of Student Competency**

Accomplishing these goals demands deliberate, consistent exposure and training over the course of many years, as knowledge and skills spiral to ever more complex and more independent uses and applications. HFA: SCS students will develop these skills in the following general pattern:

<b>Competency</b>	<b>6<sup>th</sup> &amp; 7<sup>th</sup> Grades</b>	<b>8<sup>th</sup>, 9<sup>th</sup>, &amp; 10<sup>th</sup> Grades</b>	<b>11<sup>th</sup> &amp; 12<sup>th</sup> Grades</b>
<i>Integrating Technology</i>	Teachers structure learning in projects that integrate technology	Teachers collaborate with students to plan and manage projects that integrate technology	Students largely initiate their own projects and investigations, using a variety of tools and resources
<i>Learning New Technologies</i>	Teachers introduce new technologies, with explicit instruction to build student know-how	Teachers continue to introduce and teach new technologies; Teachers collaborate with students to assess technology needs and provide know-how	Students often introduce and teach new technologies to one another and/or learn from other resources (online, from community partners, etc.)
<i>Making Technology Choices</i>	Teachers make their rationale for technology choices transparent; students develop an understanding for appropriate use	Teachers continue to make their thinking transparent; students make choices and explain their rationale	Students reflect on and articulate their rationale for their technology choices

<b>Competency</b>	<b>6<sup>th</sup> &amp; 7<sup>th</sup> Grades</b>	<b>8<sup>th</sup>, 9<sup>th</sup>, &amp; 10<sup>th</sup> Grades</b>	<b>11<sup>th</sup> &amp; 12<sup>th</sup> Grades</b>
<i>Sharing Work Products</i>	Teachers structure ways for students to produce and share their work in resource	Teachers structure ways for students to actively use one another's published	Students regularly publish their work in resource depositories that others use as

	depositories	work as resources for their own learning	resources
<i>Determining Source Credibility</i>	Teachers bring in information from reliable sources, and coach students to notice differences in reliability and quality of sources	Teachers and students work together to bring in high quality, reliable sources; teachers facilitate discussions of bias, information quality, appropriateness to task, etc.	Students develop their resource base independently; they demonstrate a critical understanding of quality and reliability, and consistently access credible sources
<i>Using Technology Responsibly</i>	Teachers facilitate discussions related to ethical and social issues related to use of technology, and provide guidelines for responsible, ethical use	Teachers facilitate discussions on ethical and socially responsible use of technology; students and teachers collaborate to articulate guidelines in more complex ethical issues	Students reflect on and assess ethical and social issues related to their use of technology; take leadership in educating other students in responsible and ethical use

Exhibit A  
Henry Ford Academy Five Developmental Areas

HFA: SCS will provide every student with the tools and capacity to thrive as a contributing member of the 21<sup>st</sup> century global community. All HFA: SCS graduates will demonstrate their readiness to do so by meeting the expectations for high standards of mastery in each of the Five Developmental Areas. Core and elective courses, student activities, and the many formal and informal interactions among staff and students are consciously designed to reinforce one or more of the Developmental Areas, ensuring that students have multiple and varied means of support in their four years at HFA: SCS to achieve this challenging goal.

**Academic Content:**

Students will develop and demonstrate an understanding of the critical elements of the core academic disciplines (lang. arts, math, science and social studies) by exploring compelling questions and problems, engaging in authentic work and applying their skills and knowledge to real-world experiences. Students will also develop competencies in and an appreciation for fine arts, life-long health and physical fitness, and world languages and cultures. They will understand that this knowledge is not a finite source of information, but rather the foundation for effective learning and decision-making in work and life.

**Technology:**

Students will use technology as an integral part of their learning. They will develop expertise with technologies that include automated machines, computers, hand-held data collection devices, graphing calculators and robots. Students will learn to evaluate the various tools that are available for a specific purpose and select the one that is most appropriate. They will also address the intellectual, environmental and ethical issues associated with the use of technology and its impact on society.

**Communication:**

Learning and working in a team-centered community, students will develop and demonstrate a variety of effective communication skills that include reading, writing, listening, persuasion, negotiation and conflict resolution. They will learn to evaluate the validity, reliability and accuracy of the information they receive and the effectiveness of the communication strategies they choose to employ in personal relationships, work-based interactions and other social contexts. These skills will enable them to share ideas, work collaboratively and promote a more cohesive community.

**Thinking and Learning:**

Students will develop and demonstrate creative and critical thinking skills that enable them to identify problems correctly, gather and analyze needed information, and select innovative and effective solutions, a capacity they will need long after they leave school. Engaging in a variety of cognitive strategies (reflective thinking, systems thinking, logical thinking, global thinking), students will also develop their capacity as lifelong learners and their ability to adapt to new environments and challenges. Lastly, students will be expected to understand their own learning needs and seek strategies or support that will enable them to meet the expectations for high personal and academic achievement.

**Personal Development:**

Students will develop a strong awareness of their own values and use self-assessment and reflection as a means for personal growth. As a consequence of their education at HFA: SCS, they will demonstrate personal characteristics that include confidence, achievement orientation, trustworthiness, reliability, flexibility, an openness to change, acceptance of diversity, and a commitment to their local, national and global community. In addition, students will demonstrate their ability to apply the "soft skills" in a variety of situations, including school-based and work-based environments. As an ongoing part of their experience, students will understand the importance of continuous learning and set goals that reflect a commitment to the values required to live in a diverse and democratic society. They will also be able to translate their competencies to a variety of settings, including school, home, work and community.



**Exhibit B**  
**6-12 School Framework (6-8<sup>th</sup>, 9-10<sup>th</sup>, and 11-12<sup>th</sup> levels)**

<b>TRANSITION TO 6<sup>TH</sup> GRADE</b>	
<p><b>Student STEP Program (one week):</b></p> <ul style="list-style-type: none"> <li>▪ Student orientation: welcome to CUE, host institution; behavior expectations, workplace process; academic expectations</li> <li>▪ Initiate relationships: among grade level, with staff, with Jr/Sr Buddy</li> <li>▪ Introduction to classes and academic expectations</li> <li>▪ Initial introduction to long-term focus on college and career</li> <li>▪ Supported transition to middle school</li> <li>▪ Diagnostics to identify gap areas, relates to schedule of classes and labs</li> </ul> <p><b>Student PREP Program:</b></p> <ul style="list-style-type: none"> <li>▪ Summer workshops in key math, reading, skills gaps</li> <li>▪ Fun, invigorating, challenging experiences to support movement to grade level performance</li> <li>▪ Field trips, work-based interactions, projects</li> <li>▪ Varied lengths to meet individual needs</li> <li>▪ Not for all students—identified through initial interviews and test scores</li> </ul>	<p><b>Parent STEP Program (one day during student STEP):</b></p> <ul style="list-style-type: none"> <li>▪ Orientation: welcome to CUE, host institution, parent group, introduction to curriculum, homework TIPS program, long term focus on college and career</li> <li>▪ Initiate relationships with CUE staff, other parents, Parent Organization opportunities</li> <li>▪ Transition support: middle school development</li> <li>▪ Start college discussion and exposure</li> <li>▪ Registration and 7 year commitment letter</li> <li>▪ Parent programs introduced—available throughout school year</li> </ul> <p><b>Prior to actual start of school:</b></p> <ul style="list-style-type: none"> <li>▪ Family and student interview with welcome and expectations for all partners (student, family, staff, community, host)</li> <li>▪ Diagnostic testing for planning purposes</li> <li>▪ Scheduling for any summer PREP programs</li> <li>▪ Draft of 6-12<sup>th</sup> academic program plan with family input</li> <li>▪ 6<sup>th</sup> schedule of classes—proposed (7<sup>th</sup> and 8<sup>th</sup> scheduled at start of successive school years)</li> <li>▪ Signed agreements for commitment, expectations</li> </ul>
<b>MIDDLE SCHOOL CORE ELEMENTS</b>	
<p><b>Curriculum:</b></p> <ul style="list-style-type: none"> <li>▪ HFA model curriculum—ADF and essential elements</li> <li>▪ Core: Math, science, ELA, Social Studies core</li> <li>▪ Targeted instruction in reading, math, writing, study and organization skills—AVID program</li> <li>▪ Non-core and electives: innovation/creativity, foreign language, art, p.e., technology, others</li> <li>▪ Daily Academic Coaching—focused individual and small group support, time for additional practice</li> <li>▪ Emphasis on 5 Dev Areas, college focus in all classes</li> </ul> <p><b>Forum:</b></p> <ul style="list-style-type: none"> <li>▪ Meets daily for short length of time</li> <li>▪ Connected to 5 Dev Areas: calendar, academic goal setting and tracking, inter-personal skills, community service, Town Hall meetings with</li> </ul>	<p><b>6<sup>th</sup> Grade Senior Navigator Program:</b></p> <ul style="list-style-type: none"> <li>▪ Summer training workshop as elective for upperclassmen to serve as younger student “mentors”—participation in is worth credit</li> <li>▪ Work with either individuals or small groups—maybe attached to Forum</li> </ul> <p><b>PREP Program:</b></p> <ul style="list-style-type: none"> <li>▪ Summer programs to address skill and content gaps</li> <li>▪ Before and after school workshops in gap areas</li> <li>▪ Saturday enhancement field trips or workshops</li> </ul> <p><b>TIPS:</b></p> <p>Parent homework support and involvement program</p> <p><b>Overall Schedule</b></p> <ul style="list-style-type: none"> <li>▪ Extended class time with paired classes for natural points of integration</li> <li>▪ Core classes meet for entire year, non-core and electives for semester—consider “inter-sessions”</li> </ul>

school, campus or grade level ▪ Looped within grade levels, i.e. 6-8, 9-10, 11-12 <b>Content Mastery:</b> ▪ Required demonstration in essential objectives to move to next phase ▪ 8 <sup>th</sup> grade “defense” of learning and growth	for immediate remediation, grade-wide projects, unique electives with short term groups of students ▪ Extended day with before and after school options—academic, activities, social connections ▪ Team teaching with common planning time
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<b>TRANSITION TO 9<sup>TH</sup> GRADE</b>	
<b>Milestone Marker to enter next level/high school Student STEP Program (one week):</b> ▪ Student orientation: welcome to high school, host institution; behavior expectations, workplace process ▪ Extend relationships: among grade level, with staff ▪ Introduction to classes and academic expectations of high school, planning for college ▪ Supported transition to high school ▪ New student registration and orientation as needed <b>Parent STEP Program (one day during student STEP):</b> ▪ Orientation: welcome to village, parent group refresh, introduction to high school curriculum and expectations ▪ Participation in Milestone Marker ▪ Further develop relationships with CUE staff, other parents, Parent Organization opportunities reminder ▪ Transition support: high school development ▪ Registration and 4 year commitment letter as needed for new students ▪ Continue college discussion and exposure ▪ Transcript review ▪ Parent programs introduced—available throughout school year	<b>Student PREP Program:</b> ▪ Summer workshops in key math, reading, skills gaps ▪ Fun, invigorating, challenging experiences to support movement to grade level performance ▪ Field trips, work-based interactions, projects ▪ Varied length to meet individual needs <b>Prior to actual start of school:</b> ▪ Family and student interview with welcome and expectations, as needed for new students ▪ Diagnostic testing for planning purposes, as needed ▪ Scheduling for any summer PREP programs ▪ Review of 6-12 <sup>th</sup> academic program plan with family input ▪ 9 <sup>th</sup> schedule of classes for entire year (10 <sup>th</sup> scheduled at start of following school year) ▪ Signed agreements for commitment, expectations in high school, as needed
<b>EARLY HIGH SCHOOL CORE ELEMENTS—9<sup>th</sup> and 10<sup>th</sup> grade</b>	
<b>Curriculum:</b> ▪ HFA Model curriculum—ADF and essential elements ▪ Core: Math, science, ELA, Social Studies, technology ▪ Non-core and electives: Ford PAS, innovation & creativity, foreign language, art, p.e., others ▪ Academic Coaching—regularly within week—possibly daily	<b>TIPS:</b> ▪ Parent homework support and involvement program <b>PREP Program:</b> ▪ Summer programs to address skill and content gaps ▪ Before and after school workshops in gap areas ▪ Saturday enhancement field trips or workshops <b>Overall Schedule</b>

<ul style="list-style-type: none"> <li>▪ Emphasis on 5 Dev Areas, Innovation &amp; Creativity</li> </ul> <p><b>Forum:</b></p> <ul style="list-style-type: none"> <li>▪ Meets daily for short length of time, more independent implementation of first phase elements</li> <li>▪ Connected to 5 Dev Areas: calendar, academic goal setting and tracking, inter-personal skills, community service, Town Hall meetings with school, campus or grade level</li> <li>▪ Looped within grade levels, i.e. 6-8, 9-10, 11-12</li> </ul> <p><b>Content Mastery:</b></p> <ul style="list-style-type: none"> <li>▪ Required demonstration in essential objectives to move to next phase</li> <li>▪ College and Career Prep Report Card</li> <li>▪ 10<sup>th</sup> grade "defense" of learning and growth</li> </ul>	<ul style="list-style-type: none"> <li>▪ Extended class time with paired classes for natural points of integration</li> <li>▪ Schedule of quarter/semester—consider week-long "inter-sessions" between quarters for remediation, grade-level projects, unique electives with short term groups of students, college trips</li> <li>▪ Extended day with before and after school options—academic, activities, social connections</li> <li>▪ Team teaching with common planning time</li> </ul>
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TRANSITION TO 12 <sup>TH</sup> GRADE/COLLEGE PROGRAM	
<p><b>Student STEP program (one week):</b></p> <ul style="list-style-type: none"> <li>▪ Introduction to unique campus, responsibilities and expectations</li> <li>▪ Review of transcript requirements</li> <li>▪ College testing and curriculum requirements update</li> <li>▪ College application workshop</li> <li>▪ SMP reminders and expectations</li> </ul>	<p><b>Student PREP Program:</b></p> <ul style="list-style-type: none"> <li>▪ Summer workshops in key transcript gaps</li> <li>▪ Fun, invigorating, challenging experiences to support movement to grade level performance</li> <li>▪ Field trips, work-based interactions, projects</li> <li>▪ Varied length to meet individual needs</li> <li>▪ Summer electives for Sr Navigator program</li> </ul>
<p><b>PREP</b>=Promoting Readiness for Education Progress  <b>STEP</b>=Supported Transition for Education Progress  <b>TIPS</b>=parent involvement and homework support program</p>	
<p><b>Orientation:</b> developmental issues, site/campus issues, academic program, community building, relationships with staff, "tradition" events, extra/co-curricular options and first participation, milestone markers, include THF staff, Adult Partners, administrators</p>	

## Exhibit C

### Exhibit 10-2.c

#### Proposed Scope and Sequence of Classes

(Note: Required Courses are in blue)

	6 <sup>th</sup> Grade	7 <sup>th</sup> Grade	8 <sup>th</sup> Grade	9 <sup>th</sup> Grade	10 <sup>th</sup> Grade	11 <sup>th</sup> Grade	12 <sup>th</sup> Grade	HS Req's
Art/Design	Foundations in Art & Design  Foundations in Innovation	Art Selective—required to do one, choices available	Art Selective—required to do one, choices available	Art Selective—required to do one, choices available	Art Selective—required to do one, choices available	Art Selective—required to do one, choices available	Art Selective—required to do one, choices available	5 courses
Creative Studies (ACE pathway)	Foundations in Art & Design  Foundations in Innovation	Art Selective—required to do one, choices available	Art Selective—required to do one, choices available	Advanced Selectives  <i>Portfolio required for joining "studio"</i>	Advanced Selectives	Junior Studio Class <sup>1</sup>	Senior Studio Class	Entire series required for "arts diploma"
Social Studies	World Geography—people and society	US History—major themes and issues: Am Rev to 1900	World History	Civics/Economics—functioning as an active citizen in 21 <sup>st</sup> century	US History—1900 to present	Global Issues/World History	Social Studies Elective	3 years
Language Arts	6 <sup>th</sup> Grade ELA	7 <sup>th</sup> Grade ELA	8 <sup>th</sup> Grade ELA	Contemporary Literature—Stories of Innovation	American Literature—with advanced composition	Contemporary World Literature	Contemporary Issues in Life and Literature	4 years
Language Arts (add'l support)	Direct Instruction in reading and/or writing	Writer's and/or Reader's workshop	Writer's and/or Reader's workshop	Direct Instruction in reading and/or writing	Research Methods and Writing or Writers' Workshop	Writers' Workshop	Writer's Workshop	
Science	6 <sup>th</sup> grade Integrated Science	7 <sup>th</sup> grade Integrated Science	Integrated Science with Geo-Physical Science emphasis	Integrated Science with Biology emphasis	Integrated Science with Chemistry emphasis	Integrated Science with Physics emphasis	Senior Science Selective <sup>2</sup>	4 years
Science (ACE pathway) <sup>3</sup>	6 <sup>th</sup> grade Integrated Science	7 <sup>th</sup> grade Integrated Science	Integrated Science with Geo-Physical Science emphasis	Integrated Science with Biology emphasis	Integrated Science with Chemistry emphasis	Integrated Science with Physics emphasis	Dual Enrollment  Electives at local college  Selected AP	4 years
Math	6 <sup>th</sup> grade Integrated Math	7 <sup>th</sup> grade Integrated Math	Integrated Math with emphasis on Algebra	Integrated Math with emphasis on Geometry	Integrated Math with emphasis on Alg II/Trig	Integrated Math with emphasis on Statistics/Pre-Calc	Pre-Calculus OR Calculus	4 years

<sup>1</sup> Independently focused program on individual student area of interest and potential mastery—likely on alternate schedule and much more integrated with collegiate program

<sup>2</sup> Discipline specific elective in scientific discipline—bio-medical, ecology, astronomy—TBD by teacher(s) interests and available partnerships

<sup>3</sup> Considering partnership with University Prep High School to share advanced science and math classes, AP classes—USI model

Math (add'l support)	Foundations in Mathematics	(Math Workshop)	(Math Workshop )	Foundations in Mathematics	(Math Workshop)	(Math Workshop )		
Math (ACE pathway)	6 <sup>th</sup> grade Integrated Math and Topics in 7 <sup>th</sup> Grade Integrated Math	Integrated Math with emphasis on Algebra	Integrated Math with emphasis on Geometry	Integrated Math with emphasis on Alg II/Trig	Integrated Math with emphasis on Statistics/Pre-Calc	Pre-Calculus	Calculus AP Calculus Electives at local college	4 years
Technology	Intro Tech Tools for Learning (software and hardware)			Intermediate Tech Tools for Learning	Tech Elective	Advanced Tech Tools for Learning (software and hardware)	Tech Elective	1 year of Adv TTL
PE/Health	Health and Fitness	Health and Fitness	Health and Fitness	Health and Fitness	Fitness Elective	Fitness Elective	Fitness Elective	1 course
Foreign Language—site choice				Year One	Year Two	Year Three (optional)	Year Four (optional)	2 years
SIAP (Career Focus, with emphasis on art/design)	Embedded: guest speakers or teachers, research on careers, field trips	Embedded: guest speakers or teachers, research on careers, field trips	Embedded: guest speakers or teachers, research on careers, job shadowing	Embedded: guest speakers or teachers, research on careers, job shadowing, support for summer internships	Embedded: guest speakers or teachers, research on careers, job shadowing, support for summer internships	Junior Workshop, support for summer internships	Senior Practicum, Senior Workshop, Senior Defense	Entire JW-SD series required
Ford PAS <sup>4</sup>				Electives	Electives	Electives	Electives	
College Focus	College visits, consistent references, visible in learning studios and school	College visits, consistent references, visible in learning studios and school	College visits, consistent references, visible in learning studios and school	College visits, research, education pathway research, family meetings in STEP <sup>5</sup>	College visits, college research, education pathway research, family meetings in STEP	Admissions tests, college visits, bi-weekly mtgs with college advisor, education path (JW), family workshops throughout year and in STEP	Final applications, final visits, letter of rec process, family workshops throughout year and in STEP	Req's detailed in College and Career Read. Report cards
Potential Non-core classes	Selectives Print-making Ceramics Comic Book Illustration Watercolors Graphic Design Woodworking			Automotive Design Industrial Design Sculpture		Electives related to Art/Design Engineering 101—If You Build It... Business of Art/Design American Crafts Architecture of Detroit Science in Art—ceramics, glassware Math in Art—tessellations, perspective, for example Art in Movies and Literature		

<sup>4</sup> Connects to college credit and possible scholarships

<sup>5</sup> Supported Transition for Educational Progress (STEP) refers to a one-week Orientation session at the beginning of each school year

Administrator and Teacher Evaluation Systems. The Academy Board shall adopt and implement for all teachers and school administrators a rigorous, transparent, and fair performance evaluation system that complies with sections 1249 and 1250 of the Code. If the Academy enters into an agreement with an Educational Service Provider, then the Academy Board shall ensure that the Educational Service Provider adopts a performance evaluation system that complies with this section.

Performance Evaluation System Commencing with the 2013-2014 School Year. If the Academy Board adopts and implements for all teachers and school administrators a performance evaluation system that complies with section 1249(7) of the Code, then the Academy Board is not required to implement a performance evaluation system that complies with section 1249(2) and (3). If the Academy enters into an agreement with an Educational Service Provider, then the Academy Board shall ensure that the Educational Service Provider adopts a performance evaluation system that complies with this section.

Parent Notification of Ineffective Teacher Ratings. Beginning with the 2015-2016 school year and continuing on during the term of this Contract, if a pupil is assigned to be taught by a teacher who has been rated as ineffective on his or her 2 most recent annual year-end evaluations under section 1249, the Academy Board shall notify the pupil's parent or legal guardian that the pupil has been assigned to a teacher who has been rated as ineffective on the teacher's 2 most recent annual year-end evaluations. The notification shall be in writing and shall be delivered to the pupil's parent or legal guardian by U.S. mail not later than July 15<sup>th</sup> immediately preceding the beginning of the school year for which the pupil is assigned to the teacher, and shall identify the teacher who is the subject of the notification.

Teacher and Administrator Job Performance Criteria. The Academy Board shall implement and maintain a method of compensation for its teachers and school administrators that includes job performance and job accomplishments as a significant factor in determining compensation and additional compensation earned and paid in accordance with Applicable Law. The assessment of job performance shall incorporate a rigorous, transparent, and fair evaluation system that evaluates a teacher's or school administrator's performance at least in part based upon data on student growth as measured by assessments and other objective criteria. If the Academy enters into an agreement with an Educational Service Provider, then the Academy Board shall ensure that the Educational Service Provider complies with this section.

## **SCHEDULE 10-3**

### **STAFF RESPONSIBILITIES**

At full enrollment and funding, HFA:SCS staff will have the responsibilities listed below. Positions will be filled over a 4 year timeframe as enrollment and funding allow. HFA:SCS plans to secure philanthropic support to provide the complete cadre of positions listed below; certain responsibilities and/or positions may be combined and/or left vacant for periods of time when sufficient resources are not available to fund them.

#### **Leadership Team**

- Head of School – the executive director of the middle and high schools who reports directly to the CUE Board and the Public School Academies of Detroit Board of Directors.
- Middle School Director—an administrator who manages the middle school. May also serve as Head of School.
- High School Director – an administrator who manages the high school. May also serve as Head of School
- Director of Curriculum & Instruction—an administrator who manages ongoing curriculum development, professional development, and instructional support and implementation.
- Director of Finance & Operations – an administrator responsible for oversight and management of operations and finances

#### **Instructional Team**

- Teacher - certified, highly qualified specialist(s) in a given content area responsible for implementing the curriculum. Includes special education and team leader roles for respective grades and/or content area. Each teacher will also lead a Forum group, provide academic coaching, and sponsor at least one club.
- Special Education Teacher – teacher responsible for identifying students with special needs and/or learning disabilities and for working with the students, their teachers and families to develop and enact individualized educational plans.
- Counselor – certified staff responsible for coordinating academic planning and support services for students and their families.
- Social Worker – staff member(s) responsible for providing individual and group support services for students and their families.
- College Transitions Coordinator – staff member who coordinates programming to ensure all graduates will be prepared for, accepted to and planning to enroll in college.
- Senior Practicum Coordinator – staff member who coordinates the Senior Mastery Process;

coordination includes planning and oversight of the core classes, the practicum experience, and the research and defense process.

- Instructional Coach – staff member who, in addition to part-time teaching responsibilities, is responsible for mentoring and supporting teachers.

### **Support Team**

- Records and Compliance Coordinator—an administrator who handles all compliance processes and reports.
- Development Coordinator – a staff member responsible for grant preparation and reporting, and fundraising support
- Administrative Assistant — a staff member who supports the daily operations of the school, interactions with parents and partners, and also acts as receptionist, office manager and assistant to the middle and high school directors.

A draft copy of the HFA: SCS staff handbook is attached. The HFA:SCS staff handbook will be approved by the Public School Academies of Detroit Board of Directors before the school's leadership team begins hiring teachers and support staff in 2009. Staff responsibilities also include compliance with the requirements of the staff handbook.



## EXHIBIT A

### POSITION DESCRIPTION

**TITLE:** Head of School  
(*Head of School may also function as Middle or High School Director*)  
**SCHOOL:** Henry Ford Academy: School for Creative Studies

### SUMMARY OF PURPOSE:

The Henry Ford Academy: School for Creative Studies will identify a 6-12 Head of School who will function at the highest individual level of organizational and instructional school leadership and is responsible for the day-to-day operation and management of the school. The Head of School position may be integrated into the functions of either the Middle or High School Director. The Head of School will lead the organization through the challenges of operating a 6-12 urban high school academy and serve as the chief instructional leader in delivering the Henry Ford Academy school model experience. The Head of School will lead and guide the school according to its vision and mission and, with the CUE Board of Directors, is held accountable to students, parents, the Public School Academies of Detroit Board of Directors, and the community.

### MISSION STATEMENT:

Henry Ford Academy: School for Creative Studies will be an exemplary school that prepares students for college and career success. Deeply embedded in the community and a key contributor to the ongoing revitalization of the city of Detroit, HFA: SCS will draw on the strength of broad community, corporate, individual and philanthropic partnerships to create an integrated learning community centered in an historic landmark building and extending out into the community.

### ESSENTIAL FUNCTIONS:

*Head of School assumes chief leadership responsibility in the following areas:*

#### **Curriculum and Instruction**

Manages and leads in the adaptation, implementation, documentation and development of the Henry Ford Academy Curriculum and the overall HFA School Model; guides the organization in line with the school vision and mission, strategic plan and organizational and educational goals; complies and adheres to local, state and national school policies and requirements; and aligns instructional program with state and national measures of student performance.

Serves as the school's Instructional Leader in ensuring that curriculum is developmentally appropriate, effectively delivered and is balanced among physical, cognitive, moral, and social dimensions.

## **Policy & Continuous Improvement**

Subject to the approval of the Public School Academies of Detroit Board of Directors and with the CUE Board of Directors, serves as the school leader in implementation of established school policies and procedures while continuously reviewing and changing the policies based on the school's vision, mission and goals to support continuous improvement.

## **Strategic Planning**

Serves as school leader in carrying out and managing established strategic organizational and educational plans and reviewing and changing strategic plans based on the school's vision, mission and goals to support continuous improvement. Communicates and demonstrates a clear personal vision for improving the school. Collects and analyzes varied forms of data to make decisions regarding instruction and overall school program.

## **Finances**

Participates in the preparation of budgets and financial statements, ensuring that actual incomes, expenditures, collections and cash flow are in line, while managing and reporting any variations. With Director of Operations, is responsible for reporting and presenting financial matters to the CUE Board of Directors and the Public School Academies of Detroit Board of Directors.

## **Facilities**

Serves as steward of a safe and nurturing environment. Recommends and supervises the development and maintenance of all facility functions, including but not limited to maintenance, security, food services and school technology, so that these functions best support the curriculum and mission of HFA:SCS.

## **Professional Development**

Aggressively recruits excellent staff members, while carefully and continuously evaluating, developing and retaining them. Develops high performing professional teams to build capacity and ensure school improvement, delegating responsibility and tasks by setting and communicating expectations and timelines. Assumes the lead role in mentorship, supervision and evaluation of instruction; implements systematic and collaborative teacher evaluation program.

## **School Culture/Climate**

Creates a powerful and sustainable school culture which creates the conditions for powerful academic and personal student development. Cultivates a climate and culture of respect, empathy, innovation, work ethic, self-empowerment, enthusiasm, creativity and collaboration. Develops the early experiences, traditions and symbols of the 6-12 experience. Promotes a culture with high academic and personal expectations, an expectation of post-secondary success, an emphasis on community involvement and service and an expectation of exemplary behaviors

and attitudes.

### **Community Relations**

Serves as chief leader in maintaining clear lines of communication, interaction and education with and of all stakeholders, including students, teachers, parents, school partners and community members

### **Middle or High School Director**

**Assumes chief instructional and organizational leader function (Head of School) in addition to all Essential Functions and responsibilities of Middle or High School Director.**

### **MINIMUM REQUIREMENTS:**

Bachelor's degree and experience in secondary education, instructional and/or organizational leadership and community engagement are critical. This position requires substantial expertise in urban education, including a proven record of effective authentic instruction, significant work with families and students as partners in learning, and integration of a wide range of unique, community resources. An evident commitment to holding all students to high expectations for academic and personal success is also a must.

*HFLI and CUE reserve the right to amend the minimum requirements stated above to hire the candidate which they deem would best perform the essential functions.*

### **SPECIAL SKILLS:**

Candidates should exhibit integrity beyond reproach and be able to build trusting relationships within and outside HFLI, CUE, local partners and national partners. In addition, working with faculty and non-instructional staff, students, parents, volunteers and CUE Board and the Public School Academies of Detroit Board of Directors members effectively will be a significant expectation. He or she should demonstrate strong proficiency in the use of Microsoft Office and related technical office tools. The ability to strategize, plan, execute and interact with others with tact, discretion and diplomacy are critical as is the flexibility to work in a self-directed, team-oriented and fast-paced, fluid environment with minimal clerical/secretarial support. Candidates should also anticipate working in a variety of Detroit-based locations on a regular basis.

### **PREFERRED SKILLS:**

Start-up experience in a charter school environment is desired as is significant expertise in the areas of educational reform, community partnership development, and collaborative decision-making and leadership. Candidates should be comfortable operating in a flexible, self-directed and fast-paced work environment. Experience in an entrepreneurial educational environment is highly desired.

**PHYSICAL/MENTAL/ENVIRONMENT:**

Physical:      Sitting: 30%  
                    Standing/walking: 70%

Lifting:        Not significant

Vision:        Able to work on desktop and laptop computers, and read written material

Mental:        Able to handle various projects with deadlines and work with a variety of other people

Environment: Highly visible school with wide range of people present will require flexibility, patience, creative use of shared space; personal work station for responsibilities; regular short term travel to local community organizations and institutions.

## **POSITION DESCRIPTION**

**TITLE:** High School Director  
**SCHOOL:** Henry Ford Academy: School for Creative Studies

### **SUMMARY OF PURPOSE:**

As a significant member of the founding leadership team and in close collaboration with Henry Ford Learning Institute, implement specific elements of the detailed development and work plan for school launch: significant oversight for development of local facilities, community outreach activities, development of local school design elements, process for curriculum adaptation to incorporate College for Creative Studies and Detroit community resources, recruitment and hiring of the other members of the leadership team and first year instructional staff, recruitment of potential students and initial relationship building with partners in learning.

### **MISSION STATEMENT:**

Henry Ford Academy: School for Creative Studies will be an exemplary school that prepares students for college and career success. We will be deeply embedded in the community and become a key element in the ongoing revitalization of the city of Detroit. CUE will draw on the strength of broad community, corporate, individual and philanthropic partnerships to create an integrated learning community centered in an historic landmark building and extending out into the community.

### **ESSENTIAL FUNCTIONS:**

#### **Organizational Leadership—**

- Implement the four major components of the Academy Design Framework
- Ensure the continued implementation of the 10 Essential Elements
- Implement systems, processes and planning functions that are consistent with effective organizational leadership and fiscal responsibility (with HFLI support)
- Provide a safe and caring environment focused on learning for all
- Establish and maintain open and honest lines of communication with key constituencies
- Promote fundraising and development activities to gain additional financial support
- Collaborate with the CUE Board of Directors and the Public School Academies of Detroit Board of Directors to promote the school's mission and vision
- Participate fully in the HFA Network of Schools
- Collaborate with HFLI to further develop the HFA Network of Schools

#### **Community outreach—**

- Collaborate to develop specific strategies for community outreach with multiple stakeholders
- Participate actively in community outreach activities and events
- Maintain effective relationships with community members to ensure continued input and collaboration

#### Community Partnerships—

- Establish and maintain strong connections with The College for Creative Studies, community-based organizations, cultural institutions, local and city-wide businesses
- Consistent integration of community resources from those partnerships
- Promote strong relationships with student families and care-givers that engage them in their child's education and school events

#### Instructional Leadership for Teaching and Learning—

- Take full responsibility for students' learning and achievement
- Guide the implementation of the HFA model curriculum framework through unit and daily lesson plans and learning tasks
- Guide the incorporation of HFA-selected best practices in lesson design, instructional strategies and assessment
- Guide the incorporation of the Art & Design component of the school and unique Art & Design components of the school
- Work closely with team leaders and staff to develop and implement formal and informal student events and activities that enhance the positive school culture
- Enhance relationships with students and the overall classroom and school experience by supporting and participating in student events and activities before and after school
- Maintain a learning-focused, safe environment in the classroom and common school spaces
- Enforce the Student Code of Conduct as necessary
- Ensure that all students are educated according to the requirements of NCLB, including but not limited to those with ESL needs, Special Education needs and housing needs

#### Implementation of HFA Model—

- Provide consistent focus on and reinforcement of the Five Developmental Areas in formal and informal student events and activities
- Incorporate community resources into learning experiences for students both by bringing a variety of resources to the classroom and by taking students to those resources directly
- Provide consistent focus on and reinforcement of "Public School in a Public Space" and "Work Place as the Learning Space"
- Provide consistent emphasis on and support for college and career exploration and preparation through both formal and informal student events and activities, as well as the College and Career Readiness Report Card
- Provide consistent emphasis on and support for the Senior Mastery Process and Senior Transitions College Portfolio work
- Facilitate a strong and effective Forum experience for students and Forum Partners
- Be an active contributor in the shared decision-making process at the team and whole staff level

#### Curriculum Adaptation—

- Collaborate with founding leadership team and curriculum adaptation team to develop inter-disciplinary themes and learning experiences specific to HFA:SCS
- Adapt HFA curriculum and model to provide outstanding and rigorous Art & Design instruction

- Regularly review course specific daily lesson plans so that they align with the HFA Model Curriculum Framework under the guidance of the Instructional Coach and HFLI
- Participate actively with teams to develop resource bank of Detroit and College for Creative Studies specific community assets
- Develop Art & Design specific courses, electives, and experiences that further the HFA model objectives for students

#### Professional development—

- Develop a highly effective staff focused on student achievement and prepared to seek and use data to make informed instructional decisions
- Provide effective evaluation and professional coaching to instructional and support staff
- Develop and implement site specific professional development opportunities to enhance staff efforts to accomplish school improvement goals
- Participate actively in professional development workshops and sessions provided by HFA:SCS, the HFA Network of Schools, and the College for Creative Studies
- Work with staff to establish individual goals and work toward the accomplishment of increased professional capacity
- Maintain an attitude of continuous learning through professional reflection and active collaboration with colleagues
- Promote a collaborative professional learning community among staff
- Work as an active member of the HFA professional learning community

#### Student recruitment and induction—

- Collaborate to develop specific strategies to recruit students each year
- Participate actively in planned activities to introduce school to potential families and students
- Collaborate with leadership team to update and implement incoming student orientation program and family workshops (Supported Transition for Educational Progress=STEP)

#### School launch—

- Implement specific tasks identified on HFLI school launch work plan

#### Professional Obligations—

- Meet all obligations as set out in the HFA Staff Handbook

### **MINIMUM REQUIREMENTS:**

Bachelor's degree and experience in secondary education, instructional and/or organizational leadership and community engagement are critical. This position requires substantial expertise in urban education, including a proven record of effective authentic instruction, significant work with families and students as partners in learning, and integration of a wide range of unique, community resources. An evident commitment to holding all students to high expectations for academic and personal success is also a must.

### **SPECIAL SKILLS:**

Start-up experience in a charter school environment is critical as is significant expertise in the areas of educational reform, community partnership development, and collaborative decision-making and leadership. Candidates should be comfortable operating in a flexible, self-directed and fast-paced work environment. Experience in an entrepreneurial educational environment is highly desired.

### **PHYSICAL/MENTAL/ENVIRONMENT:**

Physical:        Sitting: 30%  
                     Standing/walking: 70%

Lifting:         Not significant

Vision:         Able to work on desktop and laptop computers, and read written material

Mental:         Able to handle various projects with deadlines and work with a variety of other people

Environment:   Highly-visible school with wide range of people present will require flexibility, patience, creative use of shared space; personal work station for responsibilities; regular short-term travel to local community organizations and institutions.



## **POSITION DESCRIPTION**

**TITLE:** Middle School Director  
**SCHOOL:** Henry Ford Academy: School for Creative Studies

### **SUMMARY OF PURPOSE:**

As a significant member of the founding leadership team and in close collaboration with Henry Ford Learning Institute, implement specific elements of the detailed development and work plan for school launch: significant oversight for development of local facilities, community outreach activities, development of local school design elements, process for curriculum adaptation to incorporate College for Creative Studies and Detroit community resources, recruitment and hiring of the other members of the leadership team and first year instructional staff, recruitment of potential students and initial relationship building with partners in learning.

### **MISSION STATEMENT:**

Henry Ford Academy: School for Creative Studies will be an exemplary school that prepares students for college and career success. We will be deeply embedded in the community and become a key element in the ongoing revitalization of the city of Detroit. CUE will draw on the strength of broad community, corporate, individual and philanthropic partnerships to create an integrated learning community centered in an historic landmark building and extending out into the community.

### **ESSENTIAL FUNCTIONS:**

#### **Organizational Leadership—**

- Implement the four major components of the Academy Design Framework
- Ensure the continued implementation of the 10 Essential Elements
- Implement systems, processes and planning functions that are consistent with effective organizational leadership and fiscal responsibility (with HFLI support)
- Provide a safe and caring environment focused on learning for all
- Establish and maintain open and honest lines of communication with key constituencies
- Promote fundraising and development activities to gain additional financial support
- Collaborate with the CUE Board of Directors and the Public School Academies of Detroit Board of Directors to promote the school's mission and vision
- Participate fully in the HFA Network of Schools
- Collaborate with HFLI to further develop the HFA Network of Schools

#### **Community outreach—**

- Collaborate to develop specific strategies for community outreach with multiple stakeholders
- Participate actively in community outreach activities and events
- Maintain effective relationships with community members to ensure continued input and collaboration

#### Community Partnerships—

- Establish and maintain strong connections with The College for Creative Studies, community-based organizations, cultural institutions, local and city-wide businesses
- Consistent integration of community resources from those partnerships
- Promote strong relationships with student families and care-givers that engage them in their child's education and school events

#### Instructional Leadership for Teaching and Learning—

- Take full responsibility for students' learning and achievement
- Guide the implementation of the HFA model curriculum framework through unit and daily lesson plans and learning tasks
- Guide the incorporation of HFA-selected best practices in lesson design, instructional strategies and assessment
- Guide the incorporation of the Art & Design focus of the school and unique Art & Design components of the school
- Work closely with team leaders and staff to develop and implement formal and informal student events and activities that enhance the positive school culture
- Enhance relationships with students and the overall classroom and school experience by supporting and participating in student events and activities before and after school
- Maintain a learning-focused, safe environment in the classroom and common school spaces
- Enforce the Student Code of Conduct as necessary
- Ensure that all students are educated according to the requirements of NCLB, including but not limited to those with ESL needs, Special Education needs and housing needs

#### Implementation of HFA Model—

- Provide consistent focus on and reinforcement of the Five Developmental Areas in formal and informal student events and activities
- Incorporate community resources into learning experiences for students both by bringing a variety of resources to the classroom and by taking students to those resources directly
- Provide consistent focus on and reinforcement of "Public School in a Public Space" and "Work Place as the Learning Space"
- Provide consistent emphasis on and support for college and career exploration and preparation through both formal and informal student events and activities, as well as the College and Career Readiness Report Card
- Provide consistent emphasis on and support for the Senior Mastery Process and Senior Transitions College Portfolio work
- Facilitate a strong and effective Forum experience for students and Forum Partners
- Be an active contributor in the shared decision-making process at the team and whole staff level

#### Curriculum Adaptation—

- Collaborate with founding leadership team and curriculum adaptation team to develop inter-disciplinary themes and learning experiences specific to HFA:SCS
- Adapt HFA curriculum and model to provide outstanding and rigorous Art & Design instruction

- Regularly review course specific daily lesson plans so that they align with the HFA Model Curriculum Framework under the guidance of the Instructional Coach and HFLI
- Participate actively with teams to develop resource bank of Detroit and College for Creative Studies specific community assets
- Develop Art & Design specific courses, electives, and experiences that further the HFA model objectives for students

#### Professional development—

- Develop a highly effective staff focused on student achievement and prepared to seek and use data to make informed instructional decisions
- Provide effective evaluation and professional coaching to instructional and support staff
- Develop and implement site specific professional development opportunities to enhance staff efforts to accomplish school improvement goals
- Participate actively in professional development workshops and sessions provided by HFA:SCS, the HFA Network of Schools, and The College for Creative Studies
- Work with staff to establish individual goals and work toward the accomplishment of increased professional capacity
- Maintain an attitude of continuous learning through professional reflection and active collaboration with colleagues
- Promote a collaborative professional learning community among staff
- Work as an active member of the HFA professional learning community

#### Student recruitment and induction—

- Collaborate to develop specific strategies to recruit students each year
- Participate actively in planned activities to introduce school to potential families and students
- Collaborate with leadership team to update and implement incoming student orientation program and family workshops (Supported Transition for Educational Progress=STEP)

#### School launch—

- Implement specific tasks identified on HFLI school launch work plan

#### Professional Obligations—

- Meet all obligations as set out in the HFA Staff Handbook

#### **MINIMUM REQUIREMENTS:**

Bachelor's degree and experience in middle school education, instructional and/or organizational leadership and community engagement are critical. This position requires substantial expertise in urban education, including a proven record of effective authentic instruction, significant work with families and students as partners in learning, and integration of a wide range of unique community resources. An evident commitment to holding all students to high expectations for academic and personal success is also a must.

#### **SPECIAL SKILLS:**

Start-up experience in a charter school environment is critical as is significant expertise in the areas of educational reform, community partnership development, and collaborative decision-

making and leadership. Candidates should be comfortable operating in a flexible, self-directed and fast-paced work environment. Experience in an entrepreneurial educational environment is highly desired.

**PHYSICAL/MENTAL/ENVIRONMENT:**

Physical:       Sitting: 30%  
                  Standing/walking: 70%

Lifting:         Not significant

Vision:         Able to work on desktop and laptop computers, and read written material

Mental:         Able to handle various projects with deadlines and work with a variety of other people

Environment:   Highly-visible school with wide range of people present will require flexibility, patience, creative use of shared space; personal work station for responsibilities; regular short-term travel to local community organizations and institutions.

## **POSITION DESCRIPTION**

**TITLE:** Director for Curriculum & Instruction  
**SCHOOL:** Henry Ford Academy: School for Creative Studies

As a significant member of the founding leadership team and in close collaboration with the Principal, the Director for Curriculum & Instruction provides staff leadership on issues of curriculum, assessment, instruction, and staff development. The Director of Curriculum & Instruction shall act in the Principal's stead when the Principal is unavailable or unable to perform his/her duties.

## **RESPONSIBILITIES:**

### ***Curriculum Adaptation and Development***

- Lead the development and adaptation of the HFA curriculum model to meet the needs of CCS:SCS and the Detroit community
- Align developed curriculum with National and Michigan standards and local assessments
- Review regularly course specific daily lesson plans
- Monitor the successful implementation of the CCS:SCS curriculum
- Provide feedback and input on the curriculum development process
- Motivate and focus all staff on student performance and on reaching for increasingly high levels of student achievement
- Determine needs for and order curricular/instructional materials
- Collaborate with the instructional team to develop inter-disciplinary themes and learning experiences specific to CCS:SCS
- Provide lesson-planning and unit-planning support to teachers on an as-needed basis
- Direct the implementation of enrichment and acceleration plans
- Provide input in the selection of Forum activities

### ***Assessment Oversight***

- Maintain internal and external assessment systems and help teachers use assessment data to further improve the quality of instruction
- Design and develop annual assessment calendars
- Work closely with teachers to set clear, measurable student performance goals for students in their individual classes
- Direct standardized test administration
- Together with the principal, analyze standardized test results, and other data points in order to target interventions that will ensure the academic success of all students
- Collect and review teacher-developed assessments
- Ensure frequent communication to parents around student academic performance

### ***Professional Development***

- In conjunction with the Principal, set clear expectations and standards for excellent teaching and professionalism
- Prioritize staff training needs and to organize a plan for individual and staff-wide professional development; oversee the implementation of the plan to revise as necessary in response to student and teacher needs
- In conjunction with the Principal, design, deliver and coordinate professional development for teachers including a menu of internal and external professional development opportunities available to our teachers

### ***Academic Programming***

- Create master schedule for students and teachers
- Schedule all class sections and student placements and approve any changes
- Ensure that report cards and progress reports are done well, accurately, and on time
- Manage specific aspects of CCS:SCS (schedules, grades, and assessments)
- Provide input in the selection of Forum activities
- Direct the academic components of intersession (i.e. identifying students for remediation and enrichment)

### ***Promotion of Positive Behaviors***

- In conjunction with the Principal, lead the larger staff in creating a strong, disciplined, achievement-oriented school culture
- Follow-through around school culture & student discipline policies & plans
- Together with the Principal, problem-solve with teachers and work intensively with our most challenging behavior students and their families and develop special relationships and behavior plans with these students to help coach, support, and compel these students to increasingly positive behavior;
- Serve as a model for the staff for effective student discipline by personally demonstrating the persistence, insistence, and consistence necessary to inspire positive behavior
- Maintain fairness and consistency in the issuance of consequences outlined in the Student Code of Conduct
- Supervise breakfast and lunch as needed

### ***Leadership***

- Effectively communicate the mission of CCS:SCS to students, staff, parents and community members
- Work with the leadership team to problem-solve all major areas of school concern and plan for school success
- Listen to and respond to problems/concerns identified by teachers and parents and to be thoughtful in designing solutions
- Serve as a role model and guardian of the professional values of CCS:SCS
- In conjunction with the Principal, provide strategic direction for the school, including refining school objectives and planning for how these objectives will be met over time and implement a system for the regular collection of data and to monitor progress against goals
- In conjunction with the Principal, interview and develop high quality teachers

**MINIMUM REQUIREMENTS:**

Bachelor's degree and experience in secondary education, instructional and/or organizational leadership and experience with community engagement are critical. This position requires substantial expertise in urban education, including a proven record of effective authentic instruction, significant work with families and students as partners in learning, and integration of a wide range of unique, community resources. An evident commitment to holding all students to high expectations for academic and personal success is also a must.

**SPECIAL SKILLS:**

Start up experience in a charter school environment is critical as is significant expertise in the areas of educational reform, community partnership development, and collaborative decision-making and leadership. Candidates should be comfortable operating in a flexible, self-directed and fast-paced work environment. Experience in an entrepreneurial educational environment is highly desired.

**PHYSICAL/MENTAL/ENVIRONMENT:**

Physical:       Sitting: 30%

                      Standing/walking: 70%

Lifting:         Not significant

Vision:         Able to work on desktop and laptop computers, and read written material

Mental:         Able to handle various projects with deadlines and work with a variety of other people

Environment:   Highly visible school with wide range of people present will require flexibility, patience, creative use of shared space; personal work station for responsibilities; regular short term travel to local community organizations and institutions.

## **POSITION DESCRIPTION**

**TITLE:** Director of Finance and Operations  
**SCHOOL:** Henry Ford Academy: School for Creative Studies

As a significant member of the Senior Leadership Team and in close collaboration with the Principal, the Director of Finance and Operations provides staff leadership and oversight on issues of Finance, Operations, Procurement and Development.

## **MISSION STATEMENT:**

Henry Ford Academy: School for Creative Studies will be an exemplary school that prepares students for college and career success. We will be deeply embedded in the community and become a key element in the ongoing revitalization of the city of Detroit. CUE will draw on the strength of broad community, corporate, individual and philanthropic partnerships to create an integrated learning community centered in an historic landmark building and extending out into the community.

## **RESPONSIBILITIES:**

### ***Administration***

- Manage all day-to-day non-instructional operations and financial matters of the school and supervise all administrative and non-instructional personnel.
- Work effectively with HFLI, College for Creative Studies (CCS), the local community and corporate partners, and other organizations to develop the resources necessary to successfully implement the Henry Ford Academy Model.
- Responsible for compliance with all state and federal charter regulations and other applicable laws.
- Direct human resource function. Maintain all employee files and coordinate employee benefits.
- Work effectively with and support the principal, the chair of the CUE Board of Directors, and the Public School Academies of Detroit Board of Directors.
- Work closely with all staff to develop a positive school culture and ensure the human resources function of the school is operating effectively. Foster good faculty, community, and parent relations.
- Support and lead administrative staff in order to ensure teachers have the resources necessary to meet the needs of their students.
- Oversee timely and economical procurement of supplies, equipment and services.

### ***Finance***

- Administer effective accounting, planning, budgeting efforts, including payroll, benefits, and all aspects of the general ledger.
- Prepare annual budgets for presentation to the Public School Academies of Detroit Board of Directors. Establish, review, and enforce financial and accounting policy. Develop business processes to ensure adequate financial and cost controls.
- Ensure timely monthly review of the financial condition and performance relative to



financial objectives.

- Manage all vendor relationships, flows of funds, procurement, etc., and ensure an effective system of internal control is present.
- Develop and monitor budgets to ensure that all expenditure of funds meets all state, federal, local, and grant guidelines.
- Provides direct staffing and support to the finance committee.
- Oversee the annual audit and ensure compliance with all reporting entities, including an array of foundation and government funding sources.
- Administer all insurance requirements.
- Staff the Henry Ford Academy: School for Creative Studies financial committee.

### ***Operations***

- Oversee the operation of all facilities, including safety and security needs. Manage office facilities, equipment, furniture, supplies, and vendors, and all landlord/tenant matters.
- Direct core office activities and administrative functions: telecommunication, mail, ordering supplies, maintaining the general files and databases. Manage general administrative and reception staff.
- Represent the School on financial and operational matters to school funding sources, representatives of the County and State Government, banking officials, the School's outside accounting firm, the CUE Board of Directors, and the Public School Academies of Detroit Board of Directors.

### ***Technology***

- Manage IT resources and all information systems. Oversee staff and vendors to ensure smooth operations, including network administration, backups, and ongoing special projects related to hardware, software, and data management.
- Direct use of technology to optimize business processes and streamline school administration tasks.
- Ensure effective implementation of the E-Rate reimbursement program.

### ***Development***

- Together with the principal, oversee fundraising, marketing, and development.
- Assist in the development and implementation of the communications and media strategy.
- Participate in fundraising; identify potential private support and government programs.

## **MINIMUM QUALIFICATIONS:**

College and/or master degree in an appropriate field. Preference for an MBA or CPA. Entrepreneurial thinker with exceptional leadership skills and a desire to support the vision and mission of a Henry Ford Academy. Willingness and enthusiasm for doing whatever it takes to ensure the operational and financial needs of the school are met. Proven ability to communicate clearly, perform at a high level under pressure, and work efficiently as both a team member and as a leader. Experience as a school business official and/or teacher highly desired. Preference for charter school experience. Strong background in accounting, finance, and operations.

Familiarity with Detroit educational and Detroit charter political landscape. Strong belief that all kids can succeed at very high levels. Computer proficiency and experience with Microsoft Office, a sophisticated accounting software package, and a basic understanding of network technology is required.

**PHYSICAL/MENTAL/ENVIRONMENT:**

Physical:        Sitting: 30%  
                     Standing/walking: 70%

Lifting:         Not significant

Vision:         Able to work on desktop and laptop computers, and read written material

Mental:         Able to handle various projects with deadlines and work with a variety of other people

Environment:   Highly visible school with wide range of people present will require flexibility, patience, creative use of shared space; personal work station for responsibilities; regular short term travel to local community organizations and institutions.

## **POSITION DESCRIPTION:**

**TITLE:** Senior Practicum Coordinator  
**SCHOOL:** Henry Ford Academy: School for Creative Studies

## **SUMMARY OF PURPOSE:**

As a member of the Administrative team, the Senior Practicum Coordinator facilitates a signature experience in the Henry Ford Academy model: The Senior Mastery Process (SMP). Functions include coordinating career opportunities integrated throughout the 6-10 experience, but specifically coordinating Junior Workshop exploration class, matching students with Internship Partners in their interest areas, managing and cultivating relationships with potential and existing internship partners, and monitoring the internship (Senior Practicum) period. Finally, position oversees the final research and defense presentation of the Senior Practicum experience.

## **MISSION STATEMENT:**

Henry Ford Academy: School for Creative Studies will be an exemplary school that prepares students for college and career success. We will be deeply embedded in the community and become a key element in the ongoing revitalization of the city of Detroit. CUE will draw on the strength of broad community, corporate, individual and philanthropic partnerships to create an integrated learning community centered in an historic landmark building and extending out into the community.

## **ESSENTIAL FUNCTIONS:**

- Work with staff to implement a comprehensive College and Career integration plan for the 6-12 curriculum
- Train and monitor SMP teachers and provide professional development and curricular support in the process
- Coordinate and cultivate relationships for components of Junior Workshop, including Mock Interviews and guest speakers
- Aggressively assist Juniors and Seniors in obtaining Senior Practicum placements, including summer placements
- Maintain and expand relationships with a wide range of institutions, businesses, professionals, community organizations, and other potential internship partners
- Communicate and meet with internship partners regularly to monitor internship process
- Maintain accurate records of intern interaction and remediate problems or issues with intern/partner
- Coordinate Senior Workshop experience, including support of teacher, coordination of Senior Defenses, and final evaluation of SMP experience
- Coordinate and conduct other work-based, College and Career focused events and activities
- As a member of the Administrative Team, fulfill additional school responsibilities as needed

## **MINIMUM REQUIREMENTS:**

Bachelor's degree and experience with work-based student experiences and/or college and career preparation. This position requires substantial expertise in urban education, including significant work with families and students as partners in learning, and integration of a wide range of unique, community resources. Candidate should exhibit integrity beyond reproach and be passionate about furthering educational reform in a public environment. A commitment to holding all students to high expectations for academic and personal success is also a must. Candidate should have superior written and oral communication skills; ideal candidates have experience coordinating extra-curricular events and activities and capacity to work collaboratively across disciplines.

## **SPECIAL SKILLS:**

Start up experience in a charter school environment is critical as is significant expertise in the areas of educational reform, community partnership development, and collaborative decision-making and leadership. Candidates should be comfortable operating in a flexible, self-directed and fast-paced work environment with limited administrative support. Experience in an entrepreneurial educational environment is highly desired.

## **PHYSICAL/MENTAL/ENVIRONMENT:**

- Physical:      Sitting: 30%  
                    Standing/walking: 70%  
                    Travel to Intern Placements required most days
- Lifting:         Not significant
- Vision:         Able to work on desktop and laptop computers, and read written material
- Mental:         Able to handle various projects with deadlines and work with a variety of other people
- Environment:   Highly visible school with wide range of people present will require flexibility, patience, creative use of shared space; personal work station for responsibilities; regular short term travel to local community organizations and institutions.

## **POSITION DESCRIPTION**

**TITLE:** Teacher  
**SCHOOL:** Henry Ford Academy: School for Creative Studies

### **SUMMARY OF PURPOSE:**

As a member of a high performing instructional team, establish and sustain a school culture and learning environment that supports all students meeting high expectations for personal and academic achievement through a variety of professional activities and responsibilities: use of research based best instructional practices, implementation of the HFA model curriculum framework, development of community partnerships, participation in professional development, participation in school-related and student centered activities, completion of all professional obligations.

### **MISSION STATEMENT:**

Henry Ford Academy: School for Creative Studies will be an exemplary school that prepares students for college and career success. We will be deeply embedded in the community and become a key element in the ongoing revitalization of the city of Detroit. CUE will draw on the strength of broad community, corporate, individual and philanthropic partnerships to create an integrated learning community centered in an historic landmark building and extending out into the community.

### **ESSENTIAL FUNCTIONS:**

#### **Teaching and Learning—**

- Take full responsibility for students' learning
- Implement the HFA model curriculum framework through unit and daily lesson plans and learning tasks
- Incorporate HFA selected best practices in lesson design, instructional strategies and assessment
- Work closely with a teaching partner and grade-level team to develop and implement interdisciplinary learning experiences
- Enhance relationships with students and the overall classroom and school experience by supporting and participating in student events and activities before and after school
- Maintain a learning-focused, safe environment in the classroom and common school spaces
- Enforce the Student Code of Conduct as necessary

#### **Implementation of HFA Model—**

- Provide consistent focus on and reinforcement of the Five Developmental Areas in formal and informal student events and activities
- Incorporate community resources into learning experiences for students both by bringing a variety of resources to the classroom and by taking students to those resources directly
- Provide consistent focus on and reinforcement of Public School in a Public Space and Work Place as the Learning Space

- Provide consistent emphasis on and support for college and career exploration and preparation through both formal and informal student events and activities, as well as the College and Career Readiness Report Card
- Provide consistent emphasis on and support for the Senior Mastery Process and Senior Transitions College Portfolio work
- Facilitate a strong and effective Forum experience for students and Forum Partners
- Provide active instructional support through Academic Coaching
- Be an active contributor in the shared decision-making process at the team and whole staff level

#### Community Partnerships—

- Establish and maintain strong connections with community-based organizations, cultural institutions, local and city-wide businesses
- Consistent integration of community resources from those partnerships
- Establish and maintain regular, personal contact with families and student care-givers

#### Curriculum Adaptation—

- Collaborate with founding leadership team and curriculum adaptation team to develop inter-disciplinary themes and learning experiences specific to HFA:SCS
- Develop course specific daily lesson plans that align with the HFA Model Curriculum Framework under the guidance of the Instructional Coach and HFLI
- Participate actively with teams to develop resource bank of College for Creative Studies and Detroit specific community assets
- Develop Art and Design specific electives that further the HFA model objectives for students

#### Professional development—

- Participate actively in professional development workshops and sessions provided by HFA:SCS, the HFA Network of Schools, and The College for Creative Studies
- Establish individual goals and work toward the accomplishment of increased professional capacity
- Maintain an attitude of continuous learning through professional reflection and active collaboration with colleagues
- Work as an active member of the HFA professional learning community

#### Student recruitment and induction—

- Collaborate to develop specific strategies to recruit students each year
- Participate actively in planned activities to introduce school to potential families and students
- Collaborate with leadership team to update and implement incoming student orientation program and family workshops (Supported Transition for Educational Progress=STEP)

#### School launch—

- Implement specific tasks identified on HFLI school launch work plan as assigned by founding principal

**Professional Obligations—**

- Meet all obligations as set out in the HFA Staff Handbook

**MINIMUM REQUIREMENTS:**

Bachelor's degree and experience in education, target academic content area certification and teacher leadership are critical. This position requires substantial expertise in urban education, including a proven record of effective authentic instruction, significant work with families and students as partners in learning, and integration of a wide range of unique, community resources. An evident commitment to holding all students to high expectations for academic and personal success is also a must.

**SPECIAL SKILLS:**

Experience in secondary schools that face instructional and material challenges is critical as is significant expertise in working with urban families, developing community partnerships and collaborative decision-making and leadership. Candidates should be comfortable operating in a flexible, self-directed and fast-paced work environment. Experience in an entrepreneurial educational environment is highly desired.

**PHYSICAL/MENTAL/ENVIRONMENT:**

Physical:        Sitting: 30%  
                     Standing/walking: 70%

Lifting:         Not significant

Vision:         Able to work on desktop and laptop computers, and read written material

Mental:         Able to handle various instructional challenges and projects and work with a variety of other people in a collaborative manner

Environment: Highly visible classroom with wide range of people present will require flexibility, patience, creative use of shared space; personal work station for responsibilities outside of direct interactions with students; regular short term travel to local community organizations and institutions.

## **POSITION DESCRIPTION**

**TITLE:** Special Education Teacher  
**SCHOOL:** Henry Ford Academy: School for Creative Studies

## **SUMMARY OF PURPOSE:**

The Special Education Teacher/Case Manager is responsible for identifying children with special needs and/or learning disabilities, working with students with disabilities individually, in groups, or within their classroom, working with teachers to identify best practices for differentiated instruction, and designing and implementing Individual Education Plans for students. In addition, the Special Education Teacher/Case Manager shall collect, review, update and securely store student files; convene IEP/IEPT meetings and annual reviews.

## **MISSION STATEMENT:**

Henry Ford Academy: School for Creative Studies will be an exemplary school that prepares students for college and career success. Deeply embedded in the community and a key contributor to the ongoing revitalization of the city of Detroit, HFA: SCS will draw on the strength of broad community, corporate, individual and philanthropic partnerships to create an integrated learning community centered in an historic landmark building and extending out into the community.

## **ESSENTIAL FUNCTIONS:**

### **Student Achievement**

- Plan a program of study that meets the individual needs, interests, and abilities of the students
- Assist in establishing curricular objectives and the development of the comprehensive plan for the implementation and evaluation of the objectives
- Implement differentiated curriculum that is aligned with state standards and school goals
- Focus staff on student performance through the monitoring of teacher grade books and data for special needs students
- Assist teachers with the creation and implementation of differentiated instruction for students who are struggling
- Ensure that teachers set clear, measurable, attainable and rigorous performance goals for their individual students and classes as a whole
- Plan and co-teach with individual teachers as needed

### **Teacher/Staff Development and Accountability**

- Write and review reports according to the law and submit all documentation required by HFA:SCS and Michigan state and National agencies and departments
- Meet deadlines for submitting required documentation
- Assist teacher with the implementation of school curriculum



- In collaboration with administration, participate in the training of new staff around special education laws
- Lead in the design and advertisement of professional development opportunities for the whole staff and individual staff members
- Attend leadership meetings and provide guidance on special education related issues
- When necessary, provide one on one coaching to teachers so that their students can achieve high standards
- Keep up to date with current educational research on curriculum and instruction
- Manage all aspects of student database relative to Special Education

### **Operations and Compliance**

- Coordination and administration of standardized testing materials
- Initiate the requisition of appropriate curricular materials for the school
- Assist in the management of student database, school records and school reports
- Keep up with changes that are made to the Michigan state and National educational standards
- Facilitate all manifestation hearings

### **School Environment**

- Promote high academic standards for all students
- Together with HFA:SCS staff, plan and facilitate Forum activities/curriculum
- Maintain a high level of professionalism and promote the same level of professionalism for other staff members
- Create an open line of communication with the faculty/staff to promote a positive, collegial atmosphere
- Serve as a model for the staff for effective student discipline by personally demonstrating the persistence, insistence, and consistence necessary to inspire positive behavior

### **Parent and Community Relations**

- Monitor staff communication with parents i.e. phone calls, letters, mailings, etc.
- Assist administration in promoting the participation of students, parents and staff in school initiated activities
- Communicate with parents frequently about the progress and needs of students

### **Leadership**

- Effectively communicate the mission of HFA:SCS to students, staff, parents and community members
- Provide mentoring for new and current staff
- Work with the leadership team to problem solve all major areas of school concern
- Assist administration with projects as requested
- Supervise breakfast and lunch as needed
- Meet all obligations as set out in the HFA Staff Handbook

## **QUALIFICATIONS:**

1. Bachelor's degree or higher
2. Valid Michigan teacher certification with Special Education endorsement
3. Experience working with students with various learning disabilities and special needs
4. Experience working with students who have been educationally underserved
5. Commitment to the mission of HFA:SCS

## **MINIMUM REQUIREMENTS:**

Bachelor's degree and Special Education Certification required, experience in education, target academic content area certification and teacher leadership are critical. This position requires substantial expertise in urban education, including a proven record of effective authentic instruction, significant work with families and students as partners in learning, and integration of a wide range of unique, community resources. An evident commitment to holding all students to high expectations for academic and personal success is also a must.

## **SPECIAL SKILLS:**

Experience in secondary schools that face instructional and material challenges is critical as is significant expertise in working with urban families, developing community partnerships and collaborative decision-making and leadership. Candidates should be comfortable operating in a flexible, self-directed and fast-paced work environment. Experience in an entrepreneurial educational environment is highly desired.

## **PHYSICAL/MENTAL/ENVIRONMENT:**

Physical:        Sitting: 30%  
                     Standing/walking: 70%

Lifting:         Not significant

Vision:         Able to work on desktop and laptop computers, and read written material

Mental:         Able to handle various instructional challenges and projects and work with a variety of other people in a collaborative manner

Environment:   Highly visible classroom with wide range of people present will require flexibility, patience, creative use of shared space; personal work station for responsibilities outside of direct interactions with students; regular short term travel to local community organizations and institutions.

**POSITION DESCRIPTION:**

TITLE: Counselor

SCHOOL: Henry Ford Academy: School for Creative Studies

**SUMMARY OF PURPOSE:**

The Henry Ford Academy: School for Creative Studies Counselor will provide a comprehensive guidance program which meets the needs of all 6-12 students. Counselor will promote and enhance academic, personal, social, and career development of the students.

**MISSION STATEMENT:**

Henry Ford Academy: School for Creative Studies will be an exemplary school that prepares students for college and career success. We will be deeply embedded in the community and become a key element in the ongoing revitalization of the city of Detroit. CUE will draw on the strength of broad community, corporate, individual and philanthropic partnerships to create an integrated learning community centered in an historic landmark building and extending out into the community.

**ESSENTIAL FUNCTIONS:**

- Implement a comprehensive guidance program which meets the broad needs of HFA:SCS students in grades 6-12
- Promote and enhance academic, personal, social, and career development of the students
- Conduct structured, goal-oriented counseling sessions in response to identified needs of individuals and groups of students
- Consult with and serve as a resource for teachers, staff, and parents regarding the developmental needs of students
- Refer students and their parents to community agencies, programs, or specialists as appropriate
- Participate in the evaluation and revision of the school guidance program
- Fulfill professional responsibilities
- Assist in school scheduling and programming, and other logistical functions as needed
- As a member of the Administrative Team, fulfill before and after school responsibilities
- Conduct before and after school meetings and presentations for parents, students and community
- Assist in the recruitment of new students
- Other general counseling and administrative functions as needed

**MINIMUM REQUIREMENTS:**

Bachelor's degree and counseling certification; experience with college and career preparation ideal. This position requires substantial expertise in urban education, including significant work with families and students as partners in learning, and integration of a wide range of unique,

community resources. Candidate should exhibit integrity beyond reproach and be passionate about furthering educational reform in a public environment. A commitment to holding all students to high expectations for academic and personal success is also a must. Candidate should have superior written and oral communication skills; ideal candidates have experience coordinating extra-curricular events and activities and capacity to work collaboratively across disciplines.

### **SPECIAL SKILLS:**

Start up experience in a charter school environment is critical as is significant expertise in the areas of educational reform, community partnership development, and collaborative decision-making and leadership. Candidates should be comfortable operating in a flexible, self-directed and fast-paced work environment with limited administrative support. Experience in an entrepreneurial educational environment is highly desired.

### **PHYSICAL/MENTAL/ENVIRONMENT:**

Physical:        Sitting: 30%  
                      Standing/walking: 70%

Lifting:         Not significant

Vision:         Able to work on desktop and laptop computers, and read written material

Mental:         Able to handle various projects with deadlines and work with a variety of other people

Environment:   Highly visible school with wide range of people present will require flexibility, patience, creative use of shared space; personal work station for responsibilities; regular short term travel to local community organizations and institutions.

**POSITION DESCRIPTION:**

TITLE: Social Worker  
SCHOOL: Henry Ford Academy: School for Creative Studies

**SUMMARY OF PURPOSE:**

The Henry Ford Academy: School for Creative Studies Social Worker will provide a link between home, school, and community. Social Worker will facilitate students and their families in overcoming social and personal problems, provide individual and group counseling and consult with teachers and other services which help students cope with their disabilities. Must collaborate with community agencies and provide case management for students and families requiring multiple services.

**MISSION STATEMENT:**

Henry Ford Academy: School for Creative Studies will be an exemplary school that prepares students for college and career success. We will be deeply embedded in the community and become a key element in the ongoing revitalization of the city of Detroit. CUE will draw on the strength of broad community, corporate, individual and philanthropic partnerships to create an integrated learning community centered in an historic landmark building and extending out into the community.

**ESSENTIAL FUNCTIONS:**

- Meet formally and informally with students, family members, and school personnel to gather information required about a student's social, emotional, and behavioral adjustment to school and the community
- Assist students, teachers, and parents to develop solutions to family and community factors that inhibit a student's capacity or ability to learn
- Collaborate with education and social services professionals to develop appropriate agency services for students and their families
- Collaborate with various school groups to develop coping, social, and decision making skills
- Perform Social Work and Counseling functions as needed

**MINIMUM REQUIREMENTS:**

Michigan School Social Work Certification and corresponding degree (usually M.S.W.). This position requires substantial expertise in urban education, including significant work with families and students as partners in learning, and integration of a wide range of unique, community resources. Candidate should exhibit integrity beyond reproach and be passionate about furthering educational reform in a public environment. A commitment to holding all students to high expectations for academic and personal success is also a must.

### **SPECIAL SKILLS:**

Start up experience in a charter school environment is critical as is significant expertise in the areas of educational reform, community partnership development, and collaborative decision-making and leadership. Candidates should be comfortable operating in a flexible, self-directed and fast-paced work environment with limited administrative support. Experience in an entrepreneurial educational environment is highly desired.

### **PHYSICAL/MENTAL/ENVIRONMENT:**

Physical:        Sitting: 30%  
                     Standing/walking: 70%

Lifting:         Not significant

Vision:         Able to work on desktop and laptop computers, and read written material

Mental:         Able to handle various projects with deadlines and work with a variety of other people

Environment:   Highly visible school with wide range of people present will require flexibility, patience, creative use of shared space; personal work station for responsibilities; regular short term travel to local community organizations and institutions.

## **POSITION DESCRIPTION:**

**TITLE:** College Transitions Coordinator  
**SCHOOL:** Henry Ford Academy: School for Creative Studies

## **SUMMARY OF PURPOSE:**

In close collaboration with Henry Ford Learning Institute and The College for Creative Studies, the College Transitions Coordinator will lead the HFA:SCS staff in ensuring that all students are accepted, enroll, and persist to graduation in post-secondary education, with a large emphasis in Art & Design; position will ensure that the 6-12 experience focuses on connections to College and Career, lead the process of integrating exposure and interest in post-secondary experience in the HFA:SCS program and curriculum and aggressively facilitate processes for upperclassmen post-secondary application and preparation

## **MISSION STATEMENT:**

Henry Ford Academy: School for Creative Studies will be an exemplary school that prepares students for college and career success. We will be deeply embedded in the community and become a key element in the ongoing revitalization of the city of Detroit. CUE will draw on the strength of broad community, corporate, individual and philanthropic partnerships to create an integrated learning community centered in an historic landmark building and extending out into the community.

## **ESSENTIAL FUNCTIONS:**

### *Individual Planning and Goal Setting:*

- Gather and review each student's educational records and intake information for initial planning and goal setting
- Identify interests using interest inventories, interviews, and meetings with teachers, counselors, etc.
- Create and monitor Educational Development Plan and College-Career Readiness Inventories for each student

### *College & Career Discovery:*

- Connect students to learning opportunities with colleges, create opportunities for exposure to and appetite for college
- Provide structured information about colleges and careers in an advisor's role that informs planning
- Develop and implement specific plans for addressing college and career preparation through all grades
- Facilitate student opportunities on college campuses and with professionals across occupations

### *College Admissions and Transitions Counseling*

- Engage and work with students and their families on job entry, college admissions, financial aid, student life on campus, etc.

- Help students understand financial planning and ways they can earn money or secure financial funding that supports postsecondary learning
- Prepare students for survival in the workforce and/or their first semester of college, helping them to leverage resources and enroll in college readiness courses that prepare them to deal with the psychological and academic challenges of higher education
- Monitor, track, and assist in post-secondary student success after HS Graduation
- Assist in compilation of Post-Secondary and other student data

*General School Counseling*

- Other counseling duties as needed

## **MINIMUM REQUIREMENTS:**

Bachelor's degree and experience with counseling, college and career preparation. This position requires substantial expertise in urban education, including significant work with families and students as partners in learning, and integration of a wide range of unique, community resources. Candidate should exhibit integrity beyond reproach and be passionate about furthering educational reform in a public environment. A commitment to holding all students to high expectations for academic and personal success is also a must. Candidate should have superior written and oral communication skills; ideal candidates have experience coordinating extra-curricular events and activities and capacity to work collaboratively across disciplines.

## **SPECIAL SKILLS:**

Start up experience in a charter school environment is critical as is significant expertise in the areas of educational reform, community partnership development, and collaborative decision-making and leadership. Candidates should be comfortable operating in a flexible, self-directed and fast-paced work environment with limited administrative support. Experience in an entrepreneurial educational environment is highly desired.

## **PHYSICAL/MENTAL/ENVIRONMENT:**

Physical:        Sitting: 30%  
                      Standing/walking: 70%

Lifting:         Not significant

Vision:         Able to work on desktop and laptop computers, and read written material

Mental:        Able to handle various projects with deadlines and work with a variety of other people

Environment: Highly visible school with wide range of people present will require flexibility, patience, creative use of shared space; personal work station for responsibilities; regular short term travel to local community organizations and institutions.



## **POSITION DESCRIPTION**

**TITLE:** Instructional Coach  
**SCHOOL:** Henry Ford Academy: School for Creative Studies

### **SUMMARY OF PURPOSE:**

As a member and leader of a high performing instructional team, establish and sustain a school culture and learning environment that supports all students meeting high expectations for personal and academic achievement through a variety of professional activities and responsibilities: lead and monitor co-teachers in the use of research based best instructional practices, implementation of the HFA model curriculum framework, development of community partnerships, participation in professional development, participation in school-related and student centered activities, completion of all professional obligations.

### **ESSENTIAL FUNCTIONS:**

#### **Instructional Coach-**

- In addition to partial teaching load, serve as teacher-leader, assisting teachers, monitoring daily instruction, and supporting co-teachers
- Implement formal and informal Professional Development, conduct grade level and discipline-level team meetings and cross-curricular support sessions
- Assist in implementation of teacher improvement plans and work directly with High School/Middle School Directors in reviewing curriculum implementation, lesson planning, Design Challenges and cross-curricular experiences

#### **Teaching and Learning—**

- Take full responsibility for students' learning
- Implement the HFA model curriculum framework through unit and daily lesson plans and learning tasks
- Incorporate HFA selected best practices in lesson design, instructional strategies and assessment
- Work closely with a teaching partner and grade-level team to develop and implement interdisciplinary learning experiences
- Enhance relationships with students and the overall classroom and school experience by supporting and participating in student events and activities before and after school
- Maintain a learning-focused, safe environment in the classroom and common school spaces
- Enforce the Student Code of Conduct as necessary

#### **Implementation of HFA Model—**

- Provide consistent focus on and reinforcement of the Five Developmental Areas in formal and informal student events and activities
- Incorporate community resources into learning experiences for students both by bringing a variety of resources to the classroom and by taking students to those resources directly
- Provide consistent focus on and reinforcement of Public School in a Public Space and Work Place as the Learning Space

- Provide consistent emphasis on and support for college and career exploration and preparation through both formal and informal student events and activities, as well as the College and Career Readiness Report Card
- Provide consistent emphasis on and support for the Senior Mastery Process and Senior Transitions College Portfolio work
- Facilitate a strong and effective Forum experience for students and Forum Partners
- Provide active instructional support through Academic Coaching
- Be an active contributor in the shared decision-making process at the team and whole staff level

#### Community Partnerships—

- Establish and maintain strong connections with community-based organizations, cultural institutions, local and city-wide businesses
- Consistent integration of community resources from those partnerships
- Establish and maintain regular, personal contact with families and student care-givers

#### Curriculum Adaptation—

- Collaborate with founding leadership team and curriculum adaptation team to develop inter-disciplinary themes and learning experiences specific to HFA:SCS
- Develop course specific daily lesson plans that align with the HFA Model Curriculum Framework under the guidance of the Instructional Coach and HFLI
- Participate actively with teams to develop resource bank of College for Creative Studies and Detroit specific community assets
- Develop Art and Design specific electives that further the HFA model objectives for students

#### Professional development—

- Participate actively in professional development workshops and sessions provided by HFA:SCS, the HFA Network of Schools, and The College for Creative Studies
- Establish individual goals and work toward the accomplishment of increased professional capacity
- Maintain an attitude of continuous learning through professional reflection and active collaboration with colleagues
- Work as an active member of the HFA professional learning community

#### Student recruitment and induction—

- Collaborate to develop specific strategies to recruit students each year
- Participate actively in planned activities to introduce school to potential families and students
- Collaborate with leadership team to update and implement incoming student orientation program and family workshops (Supported Transition for Educational Progress=STEP)

#### School launch—

- Implement specific tasks identified on HFLI school launch work plan as assigned by founding principal

#### Professional Obligations—

- Meet all obligations as set out in the HFA Staff Handbook

#### **MINIMUM REQUIREMENTS:**

Bachelor's degree and experience in education, target academic content area certification and teacher leadership are critical. This position requires substantial expertise in urban education, including a proven record of effective authentic instruction, significant work with families and students as partners in learning, and integration of a wide range of unique, community resources. An evident commitment to holding all students to high expectations for academic and personal success is also a must.

#### **SPECIAL SKILLS:**

Experience in secondary schools that face instructional and material challenges is critical as is significant expertise in working with urban families, developing community partnerships and collaborative decision-making and leadership. Candidates should be comfortable operating in a flexible, self-directed and fast-paced work environment. Experience in an entrepreneurial educational environment is highly desired.

#### **PHYSICAL/MENTAL/ENVIRONMENT:**

Physical:        Sitting: 30%  
                     Standing/walking: 70%

Lifting:         Not significant

Vision:         Able to work on desktop and laptop computers, and read written material

Mental:         Able to handle various instructional challenges and projects and work with a variety of other people in a collaborative manner

Environment:   Highly visible classroom with wide range of people present will require flexibility, patience, creative use of shared space; personal work station for responsibilities outside of direct interactions with students; regular short term travel to local community organizations and institutions.

## **POSITION DESCRIPTION**

**TITLE:** Records and Compliance Coordinator  
**SCHOOL:** Henry Ford Academy: School for Creative Studies

### **SUMMARY OF PURPOSE:**

The Records and Compliance Coordinator position at HFA:SCS calls for a detail-oriented person with exceptional people skills. The Records and Compliance Coordinator will perform several specialized clerical functions and related duties as required.

### **MISSION STATEMENT:**

Henry Ford Academy: School for Creative Studies will be an exemplary school that prepares students for college and career success. We will be deeply embedded in the community and become a key element in the ongoing revitalization of the city of Detroit. CUE will draw on the strength of broad community, corporate, individual and philanthropic partnerships to create an integrated learning community centered in an historic landmark building and extending out into the community.

### **ESSENTIAL FUNCTIONS:**

- Coordinate strict compliance with Michigan state guidelines and requirements for all schools and specifically for charter schools and with chartering entities
- Set in place processes and protocols for reporting of records and compliance information; set in place and monitor systematic processes and protocols for gathering of information and data
- Compile school data and monitor school information systems for reporting and compliance purposes, generate reports as needed
- Monitor daily student attendance and prepare attendance reports for HFA:SCS administrators and local attendance reporting authorities
- Maintain enrollment records and assist in process of student transfers
- Maintain student history records
- Prepare and process requisitions for the procurement of supplies, instructional materials, furniture, and equipment

### **MINIMUM REQUIREMENTS:**

This position requires substantial expertise in urban education, including significant work with families and students as partners in learning, and integration of a wide range of unique, community resources. Candidate should exhibit integrity beyond reproach and be passionate about furthering educational reform in a public environment. A commitment to holding all students to high expectations for academic and personal success is also a must. Candidate should have superior written and oral communication skills.

**PHYSICAL/MENTAL/ENVIRONMENT:**

Physical:       Sitting: 30%  
                  Standing/walking: 70%

Lifting:         Not significant

Vision:         Able to work on desktop and laptop computers, and read written material

Mental:         Able to handle various projects with deadlines and work with a variety of other people

Environment:   Highly visible school with wide range of people present will require flexibility, patience, creative use of shared space; personal work station for responsibilities

## **POSITION DESCRIPTION**

**TITLE:** Development Coordinator  
**SCHOOL:** Henry Ford Academy: School for Creative Studies

### **SUMMARY OF PURPOSE:**

The Henry Ford Academy: School for Creative Studies Development Coordinator position at HFA: SCS calls for a detail-oriented person with exceptional written and verbal skills. The Development Coordinator will largely be responsible for grant preparation and reporting, fundraising support, and will perform several specialized clerical functions and related duties as required.

### **MISSION STATEMENT:**

Henry Ford Academy: School for Creative Studies will be an exemplary school that prepares students for college and career success. We will be deeply embedded in the community and become a key element in the ongoing revitalization of the city of Detroit. CUE will draw on the strength of broad community, corporate, individual and philanthropic partnerships to create an integrated learning community centered in an historic landmark building and extending out into the community.

### **ESSENTIAL FUNCTIONS:**

- Identify and prepare large and project-based grant and funding opportunities for HFA:SCS
- Report and maintain fidelity to grant requirements and specifications
- Identify and procure other funding and fundraising opportunities
- Identify and cultivate relationships with individuals and organizations for monetary and non-monetary support and partnership
- Assist the Support Team in the daily operations of the school and interaction with parents and partners
- Assist in other administrative capacities as needed

### **MINIMUM REQUIREMENTS:**

This position requires substantial expertise in urban education, including significant work with families and students as partners in learning, and integration of a wide range of unique, community resources. Candidate should exhibit integrity beyond reproach and be passionate about furthering educational reform in a public environment. A commitment to holding all students to high expectations for academic and personal success is also a must. Candidate should have superior written and oral communication skills.

**PHYSICAL/MENTAL/ENVIRONMENT:**

Physical:      Sitting: 30%  
                    Standing/walking: 70%

Lifting:        Not significant

Vision:        Able to work on desktop and laptop computers, and read written material

Mental:        Able to handle various projects with deadlines and work with a variety of other people

Environment: Highly visible school with wide range of people present will require flexibility, patience, creative use of shared space; personal work station for responsibilities

## **POSITION DESCRIPTION**

**TITLE:** Administrative Assistant  
**SCHOOL:** Henry Ford Academy: School for Creative Studies

### **SUMMARY OF PURPOSE:**

The administrative assistant position at HFA:SCS calls for a detail-oriented person with exceptional people skills. The administrative assistant will perform several specialized clerical functions and related duties as required.

### **MISSION STATEMENT:**

Henry Ford Academy: School for Creative Studies will be an exemplary school that prepares students for college and career success. We will be deeply embedded in the community and become a key element in the ongoing revitalization of the city of Detroit. CUE will draw on the strength of broad community, corporate, individual and philanthropic partnerships to create an integrated learning community centered in an historic landmark building and extending out into the community.

### **ESSENTIAL FUNCTIONS:**

#### *Reception:*

- Warmly greet students, staff, parents and visitors as they enter the office/building
- Serve as a receptionist who greets and directs visitors to appropriate staff;
- Respond to inquiries from students, parents, and guardians and the general public concerning school operations and activities
- Answer main telephone, route calls and accurately record messages for staff
- Open, sort, and distribute incoming mail and school correspondence
- Prepare and type a variety of original correspondence, memorandums, and reports as directed by administrative staff
- Maintain inventory of supplies
- Order office and instructional materials and supplies as needed
- Take notes and transcribe dictation at meetings (and for administrators)
- Schedule appointments for administrators
- Maintain a neat, orderly, inviting office
- Other duties as assigned

#### *Compliance.*

- Input daily student attendance and prepare attendance reports for HFA:SCS administrators
- Maintain attendance records of students and staff
- Maintain enrollment records and processes student transfers
- Maintain student history records



- Prepare and process requisitions for the procurement of supplies, instructional materials, furniture, and equipment
- Compile and forward student transcripts to appropriate parties

**Supervision:**

- Assist staff with supervision of students during passing time
- Monitor students and redirect inappropriate behavior as necessary

**MINIMUM REQUIREMENTS:**

Candidate should exhibit integrity beyond reproach and be passionate about furthering educational reform in a public environment. A commitment to holding all students to high expectations for academic and personal success is also a must. Candidate should have superior written and oral communication skills.

**PHYSICAL/MENTAL/ENVIRONMENT:**

Physical:        Sitting: 30%  
                      Standing/walking: 70%

Lifting:         Not significant

Vision:         Able to work on desktop and laptop computers, and read written material

Mental:        Able to handle various projects with deadlines and work with a variety of other people

Environment: Highly visible school with wide range of people present will require flexibility, patience, creative use of shared space; personal work station for responsibilities

# **Henry Ford Academy: School for Creative Studies**

## **Employee Handbook (Updated 4/6/08)**

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## Welcome and Introduction

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### Welcome

We would like to welcome you to Creative Urban Education/Henry Ford Academy: School for Creative Studies. We appreciate the contribution you make as a member of our team.

We believe that you will find many opportunities to apply your talents to our collective efforts to meet and surpass our customers' requirements. We strive to provide the highest level of service to you and hope to exceed your expectations. Creative Urban Education and the Henry Ford Academy: School for Creative Studies are committed to success in education and the workplace.

As part of a professional employer organization, you will receive the advantages of having experts handle a wide range of human resource issues that include payroll, benefits, 401(k), and claims processing. More importantly, you now have a human resource advocate working for you, whom you can contact with any payroll or benefits related questions that you may have. Work-related issues should be reported to your immediate supervisor.

We are dedicated to fulfilling your human resource needs and aspire to earn your loyalty and respect as we begin our partnership together. Urban Education/Henry Ford Academy: School for Creative Studies will be referred to as the "Company" throughout the remainder of this handbook.

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### Welcome

On behalf of the Board of Directors of Creative Urban Education (CUE), we welcome you to Creative Urban Education /The Henry Ford Academy: School for Creative Studies and wish you great success. We are embarked on a great and noble challenge: creating small schools and hands on learning programs that leverage a wide range of local resources to create thriving communities where education is everyone's responsibility. Our philosophies and learning strategies give shape to this revolutionary project. But it is the people of Creative Urban Education – our instructional, administrative and support staff - who provide the intelligence and heart that will determine our success.

This handbook was developed to describe some expectations for our employees and to outline Creative Urban Education's (CUE's) policies, programs, and benefits available to eligible employees. You will want to familiarize yourself with the Staff Handbook as soon as possible, for it will answer many questions about your employment. If you have any questions about your employment or any of our policies, please contact your Principal at The Henry Ford Academy: School for Creative Studies or the School Administrator.

We are committed to help make this the most exciting and fulfilling experience of your professional life. Working together, we are convinced we can change the face of American education and impact the lives of thousands of urban children.

Sincerely,

Creative Urban Education Board of Directors

Rick Rogers, Chair

### **Introduction**

This Handbook has been prepared to provide you with information concerning the Company, our benefits, and general practices. While it is not possible to relate in this Handbook all of our policies or to answer every question which may arise, it will provide you with a significant amount of data and will serve as a general reference that may be kept for your personal use.

This Handbook applies to all of the Company employees.

The Company reserves the right to change, add, revise, or cancel any rule, policy, compensation, or benefit that the Company provides, including those contained in this Handbook, at any time. Changes are effective on the date of their occurrence. Your inquiries and comments concerning these policies and guidelines should be directed to the Director of Finance and Operations. The information in this handbook does not constitute a contract. If a written contract differs from the information presented in this handbook, the contract supersedes the handbook. Third party benefits outlines in this policy are descriptive in nature. For specific benefits questions, please refer to the benefit plan design documents.

Please read this Handbook carefully so that you may become familiar with its contents, the advantages of working for the Company, and what is expected of you. Please retain the handbook for future reference.

We wish you every success in your position and hope that your employment the Company will be a rewarding experience.

## **Employment Relationship**

### **At-Will Employment Relationship**

All employees of the Company are "at-will" employees. This means that you have the right to terminate your employment with the Company at any time, with or without cause and with or without notice. The Company retains the same right.

This at-will policy supersedes any other provisions of this handbook and any other prior or contemporaneous document, policy or oral or written statement that could be interpreted to alter, modify, or conflict with your at-will employment status. Your at-will employment status cannot be altered or modified, other than by a written agreement signed by both you and the president of the Company, which specifically states that it alters, modifies, or supersedes this at-will employment policy.

Completion of the training and probationary period or conferral of regular status does not change an employee's status as an employee-at-will or in any way restrict the company's right to terminate such an employee or change the terms or conditions of employment.

### **Employee Status Definitions**

The following definitions were established to standardize terminology and provide common understanding in our references to employees.

***Regular Full-Time Employees:*** Those employees who have completed the Training and Orientation period and work a minimum of 40 hours weekly.

***Regular Part-time Employees:*** Those employees who have completed the Training and Orientation period and work less than 40 hours per work week. Regular part-time employees may not be eligible for all benefits.

***Temporary/Seasonal Employees:*** Those employees whose services are intended to be of limited duration. Such employees may be full or part-time. If a part-time employee is subsequently hired as a regular full time employee, his/her length of service will be determined by the regular full-time hire date unless otherwise provided in a specific benefit plan. Temporary/Seasonal employees are not eligible for benefits.

### **FLSA Definitions**

***Hourly Non-Exempt:*** Employees who receive pay for each hour worked and are eligible for overtime pay as described under the Fair Labor Standards Act.

***Salaried Exempt:*** All administration, full time instructional staff and other exempt employees as defined under the Fair Labor Standards Act. Salaried exempt employees are not eligible for overtime pay.

## **Employee Relations**

The Company subscribes to the following philosophy on employee relations:

- Respect all employees
- Provide good working conditions

- Encourage open and direct communications between employees and their managers
- Employee suggestions, comments, and complaints will be considered by management
- Management will attempt to respond promptly to employee problems

We ask that you uphold these standards. We urge you to foster an environment where problems are comfortably raised, cooperatively discussed, and equitably resolved.

### **Responsibilities of CUE Personnel**

CUE employees, because of their proximity to students, are frequently confronted with situations that, if handled incorrectly, could result in liability to CUE and the academy and personal liability to the employee. It is the company's intent to minimize that possibility.

- Employees shall maintain a standard of care for supervision, control and protection of students commensurate with assigned duties and responsibilities.
- Employees shall not send students on any personal errands.
- Employees shall not transport students in a private vehicle without the approval of the school leader and legal guardian.
- A student shall not be required to perform work or services that may be detrimental to his/her health.
- Employees shall not associate with students in a manner which gives the appearance of impropriety, including, but not limited to, the creation or participation in any situation or activity which could be considered abusive or sexually suggestive, or involve illegal substances such as tobacco, alcohol or drugs.
- Employees who through conversations and/or observations suspect sexual/physical abuse of students are required by law to report the situation directly to Wayne County Protective Services and should notify their Principal of their intent to do so.

## **Fair Employment Practices**

### **Non-Discrimination Policy**

It is the policy of the Company not to discriminate against any person in employment because of race, religion, color, sex, age, military status or application, national origin or disability or any other basis protected by state, federal or otherwise applicable law.

The Company policy of nondiscrimination covers all aspects of the employment relationship, including recruitment, selection, placement, training, compensation, promotion, transfer, layoff, recall and termination.

Under Michigan and federal law, an employee may not be discriminated against in employment because of a disability. In certain cases the Company has a duty to accommodate disabled individuals. Under Michigan law a disabled employee who needs an accommodation must notify his/her employer, in writing, of the need for accommodation within 182 days after the date the employee knows or reasonably should know that an accommodation is needed. Should you require an accommodation, you should notify the Director of Finances and Operations directly at the phone numbers provided in this Handbook. An employee's failure to timely notify the Company of a need for accommodation may result in the loss of legal rights under Michigan law.

Any questions or problems related to this policy, or any perceived deviation from this policy, should immediately be brought to the attention of The Director of Finances and Operations.

### **Harassment**

#### **Sexual and Other Unlawful Harassment**

It is illegal and against the Company policy for any employee, supervisor, or manager to harass another employee, on the basis of race, color, religion, sex (but not limited to sexual harassment), national origin, age, disability, military status or application, or any other basis protected by state, federal or other applicable law.

#### **Prohibited Conduct Includes:**

##### **1. Sexual Harassment**

Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitutes sexual harassment when: (1) submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or it creates an intimidating, hostile, or offensive working environment.

Sexual harassment may include, but is not limited to, unwelcome sexual advances or sexual flirtations; physical conduct of a sexual nature; request for sexual favors; verbal abuse of a sexual nature; graphic verbal commentaries about an individual's body; sexually degrading words used to describe an individual, including sexual nicknames; sexually oriented jokes and displays in the work place; or sexually suggestive objects, pictures or cartoons.



## **2. Other Harassment**

Harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual or his/her relatives, friends, or associates, because of his/her race, color, religion, gender (not limited to sexual harassment), national origin, age, or disability, military status or application, or any other basis protected by state or other applicable law, and that: (1) has the purpose or effect of creating an intimidating, hostile, or offensive working environment; (2) has the purpose or effect of unreasonably interfering with an individual's work performance; or (3) otherwise adversely affects an individual's employment opportunities.

Harassing conduct includes, but is not limited to, name calling, slurs, negative stereotyping or threatening, intimidating, or hostile acts that relate to one's race, color, religion, gender, national origin, age, qualified disability, military status or application or any other basis protected by state or other applicable law; or written or graphic material that defames or shows hostility or aversion toward an individual or group because of the foregoing characteristics and that is placed on walls, bulletin boards, or elsewhere on the premises or circulated in the work place.

### **Complaint Procedure:**

Any employee who believes that work place actions or words constitute harassment must immediately report or complain to the Director of Finances and Operations, Head of School, or Chairperson of the Company's Board of Director. All complaints or incidents brought to the attention of the Company will be investigated immediately in as confidential a manner as possible. Appropriate action will be taken. In determining whether alleged misconduct constitutes sexual or other unlawful harassment, the Company will look at the totality of the circumstances.

### **Penalty:**

An act found to constitute harassment in violation of this policy will result in disciplinary action up to and including discharge.

### **Non-Retaliation:**

No employee will be retaliated against for filing a complaint or participating in an investigation of a violation of this policy. If an employee feels he/she is being retaliated against in violation of this policy, he/she should follow the complaint procedure outlined above.

### **Harassment by Non-Employees:**

Any employee who believes he or she has been the subject of unlawful harassment as defined in this policy by a non-employee, such as a client or customer, during work time or in relation to the employee's work, should immediately contact the Director of Finances and Operations or Head of School. An investigation of the complaint will be undertaken as stated above.

If, after appropriate investigation, it is found that a non-employee has unlawfully harassed an employee during work time or in relation to the employee's work, appropriate action will be taken.

# Leaves of Absence

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## **Attendance and Punctuality**

It is the policy of the Company to encourage habits of good attendance and punctuality on the part of its employees. The Company recognizes that circumstances beyond your control may cause you to be absent from work for all or part of a day. However, unauthorized absences or tardiness will not be tolerated and may result in disciplinary action including probation and/or discharge. When your absence from work is unavoidable, your Manager must be notified at least one-half hour prior to the start of your scheduled work shift of the reason for your absence or tardiness and its probable duration.

Regular attendance and punctuality are important factors in your work performance. Your attendance record is considered in matters such as wage increases, promotions and transfers.

Should you be unable to work on a scheduled day, you must call and report such directly to your manager.

## **Family and Medical Leave Act**

### **Summary of FMLA**

The Company will grant eligible employees up to twelve (12) weeks of unpaid leave during any rolling twelve (12) month period measuring backward from the first day of the employee's FMLA leave for the following reasons: (1) because of the birth of and to care for the employee's newborn child; (2) because a child is placed with the employee for adoption or foster care; (3) to care for the employee's spouse, child or parent with a serious health condition; or (4) because of an employee's own serious health condition that prevents performance of his or her functions. A serious health condition may include a condition that requires inpatient care at a hospital, hospice, or residential medical care facility, a condition that results in a period of incapacity of more than three consecutive calendar days that also involves treatment two or more times by a health care provider or, treatment by a health care provider at least once with an ongoing regimen of treatment, pregnancy or prenatal care, chronic conditions that cause incapacity or require treatment, or a long-term health condition which, if left untreated, would result in a period of incapacity of more than three days, or any other qualifying condition. Questions about whether a condition is covered should be directed to The Director of Finances and Operations.

Leave taken under the FMLA and /or under any the Company policy, including but not limited to workers' compensation leave and disability leave, or under applicable state law, shall be coordinated and, to the extent permitted by law, the periods of leave permitted by the FMLA, any the Company policy, or applicable state law shall run concurrently.

### **Eligible Employees**

To be eligible for an FMLA leave, an employee must have been employed by the Company for at least twelve (12) months, whether or not consecutive. An employee must also have had at least 1250 hours of service during the twelve (12) month period before the requested leave and must be employed at a work site within 75 miles of which 50 or more employees are employed by the Company

## **Notice and Documentation Requirements**

When possible, the employee must give thirty (30) days advance notice of the need for leave. If not possible, the employee must give as much notice as is practical. In addition, when the requested leave is for planned medical treatment for the employee or a spouse, son, daughter, or parent of the employee, the employee must make a reasonable effort to schedule the treatment so as not to unduly disrupt the operations of the Company.

If the reason for the leave is to care for an employee's spouse, child or parent with a serious health condition, or for the employee's own serious health condition, the employee must have a health care provider complete the Company Medical Certification Form and return it to the Director of Finances and Operations within 15 calendar days or the request for leave may be denied or delayed.

The Company reserves the right to request re-certification from the physician in certain cases or to request certification by another physician specified by the Company at the Company expense. In the case of a conflict between two physicians, the Company, at its own expense, may obtain a third certification by a physician approved jointly by the Company and the employee. The third physician's opinion will be binding on both the Company and the employee.

If the absence exceeds ten (10) work days, before an employee may return to work from a medical leave occasioned by the employee's serious health condition, the employee is required to provide a certification from his or her doctor that the employee is able to resume work, with or without accommodations.

Any additional documentation or requirements required by any other applicable the Company policy are still effective for periods in which the employee is seeking paid leave or leave which extends beyond the FMLA period pursuant to that policy.

Failure of an employee to provide the requested certification may result in denial of the leave and /or denial of any pay pursuant to any the Company policy for which the employee might otherwise be eligible during the FMLA leave.

### **Use of Paid Time**

Employees must use paid time to which they are entitled during FMLA leave including any unused paid vacation and sick/personal days.

### **Intermittent or Reduced Schedule Leave**

If the reason for a requested leave is due to the serious health condition of the employee or a spouse, child, or parent, the employee may be entitled to leave on an intermittent or reduced schedule basis. Such leaves are permitted only where medical necessity is established by written documentation subject to verification, and the employee makes every reasonable effort to schedule the treatment so as not to disrupt the business operation of the branch or department. The Company may temporarily transfer an employee who requests intermittent leave or leave on a reduced schedule to an available alternative position with equivalent pay and benefits that better accommodates recurring periods of leave than the employee's regular position.

### **Spouses Working for the Same Employer**

There may be a few situations in which both spouses work for the Company. If each spouse seeks unpaid leave to care for his/her own sick parent, because of the birth of and to care for a child, or because of the placement of a child for adoption or foster care, their combined allowed leave is twelve (12) weeks during any consecutive twelve (12) month period. However, if each spouse requests an unpaid leave because of the serious health condition of a child or the other spouse, then each spouse is entitled to the full twelve (12) weeks of leave. In the instance of FMLA leave to care for an ill spouse who works for the Company the leave would be unpaid for the "caring" spouse (except for use of paid vacation or personal time.) The spouse who is ill may receive pay in accordance with any disability policy or plan sponsored by the Company.

### **Benefits**

During FMLA leave, employee group health plan coverage will be maintained at the level and under conditions coverage would have been provided in the absence of the leave for up to twelve (12) weeks during any rolling twelve (12) month period measured backward from the first day of the leave, subject to any changes to such plans that may become effective during the period of leave.

If an employee does not return to work or if the employee is eligible for additional leave under the Company policy, he/she may be eligible to participate in the group health plan coverage at the employee's expense under COBRA. The Company will not continue the coverage at its expense beyond the FMLA period provided by law, except as otherwise stated in the Company Medical Leave Policy.

Whether an employee is eligible to continue to participate in other the Company benefits plans while on an FMLA leave of absence shall be determined by the terms of the applicable plan.

### **Restoration to Position**

Upon return from an approved FMLA leave, the employee will be restored to his or her former position or an equivalent position with equivalent pay, benefits, and other terms and conditions of employment. Key employees may be denied restoration if the Company determines that restoration to employment will cause substantial and grievous economic injury to its operation. No employee returning from a FMLA leave will lose any employment benefit that the employee earned or was entitled to before going on such leave.

Employees are prohibited from performing work for other business entities or engaging in self-employment during a leave of absence, unless written authorization from the President is obtained by the employee. Violation of this provision may result in termination of employment.

Notwithstanding the foregoing, an employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously and actively employed during the FMLA leave period. See, Department of Labor regulation 825.312(d).

### **State Parental, or Family and Medical Leave Act Policy**

The Company will observe any applicable state law requiring a leave of absence. To the extent permitted by law, leave under any such state law shall run concurrently with leave time permitted under the FMLA or under the Company Medical Leave policy. The employee is entitled to any greater rights as set forth in the more specific provisions or under applicable state law if all eligibility requirements and obligations are met.

### **Holidays and Vacation**

The Company recognizes the value of rest and relaxation and encourages employees to use all vested vacation benefits.

#### **Holidays**

All staff will have the following paid holidays:

New Year's Day  
Martin Luther King, Jr. Day  
Spring Break (five days)  
Memorial Day  
Independence Day  
Labor Day  
Thanksgiving and the Friday after Thanksgiving  
Christmas Day through New Year's Day

The exact dates for these holidays may change from year-to-year. The school will publish a school calendar before the beginning of each school year which will detail the specific holiday dates.

#### **Vacation**

In addition to these paid holidays, teachers and other staff who follow the school calendar will have an additional summer vacation period of 30 days.

In addition to these paid holidays, year-round staff will earn 10 vacation days per year during the first 3 years of employment at CUE and 15 days per year in subsequent years. Vacation days accrue on a monthly basis to a maximum of 20 days. Staff may not use vacation days on the day immediately preceding a school holiday, or on the day immediately following a holiday.

### **Sick Leave**

When illness strikes, we want you to know that the company has anticipated your needs and prepared a policy which attempts to protect your wages, even though we can do very little to protect you from common illness.

If you are a full time employee and have successfully completed your orientation period, you shall be eligible for sick leave benefits in the event you are unable to perform your duties because of personal illness or injury which is not work related. You will be paid your regular straight time pay in accordance with the following schedule:

1. The sick pay schedule will begin each July 1 and end on June 30 for Administrative Staff. The sick pay schedule will begin each August 1 and end on July 31 for Advisors.
2. Qualifying employees shall be entitled to ten (10) paid days of sick leave. If your hire date is mid-year or otherwise, your entitlement to sick days shall be pro-rated for the first calendar year.
3. Sick leave benefits will be paid at your regular rate of pay and must be used in ½ day (4 hour) increments.
4. Sick leave is cumulative from year to year up to a cap of ninety (90) days.
5. All sick leave benefits will be forfeited if the employee resigns or is discharged.

6. In order to be eligible for sick leave benefits, you must notify your Principal or Immediate Supervisor of your illness one-half (1/2) hour prior to the start of each workday you will miss. Sick leave may not be used for vacation purposes. A doctor's slip may be required prior to the payment of sick leave benefits for five (5) days or more.
7. Upon returning to work from a sick leave absence, an employee may be required to provide a physician's verification that he or she may safely return to work. The company may require verification of illness through a health care provider of its own choosing and at the companies expense.
8. Upon returning to work from a sick leave absence where a physician's note is not required, the staff is required to submit the sick leave form to their Principal or Immediate Supervisor within three (3) days of returning back to work. If this time frame isn't met, the sick leave absence may not be paid.
9. Paid sick leave may be used in minimum increments of one-half day. Eligible employees may use sick leave benefits for an absence due to their own illness or injury or that of a family member who resides in the employee's household.

Please note that the company does not provide for Short-Term Disability other than through this policy. Sick or other paid time off must be utilized under these circumstances until Long-Term Disability is available per the plan documents.

#### **Personal Time Off**

The company provides for additional time off outside of the standard vacation schedule.

Teachers and Administrative staff will be given two (2) paid personal days off during the school year. The Personal Time off schedule will begin each July 1 and end on June 30 for Administrative Staff. The Personal Time schedule will begin each August 1 and end on July 31 for Teachers.

Upon your return from a Personal Day off, you must submit the time off form to your Principal or Immediate Supervisor within three (3) days of returning to work. If your time off slip isn't turned in within the three day time frame, you will not be paid for the time off. Personal time will be paid at a minimum of ½ day (4 hour) increments.

Personal time is not carried over from year to year if the time is not used within the contract year.

#### **Military Leave**

CUE will comply fully with the federal Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) and any other federal or state law that governs military leave. Cue will not discriminate against and past or present member of the uniformed services or applicants to the uniform services. In addition, CUE will reinstate any employee who takes leave to serve in the uniformed services who meets the following conditions:

- The employee provides CUE with advance written or verbal notice of your service;
- The employee has five years or less of cumulative service in the uniformed services while with that particular employer;
- The employee returns to work or apply for reemployment in a timely manner after conclusion of service; and

- The employee has not been separated from service with a disqualifying discharge or under other than honorable conditions.

CUE will reinstate an employee who takes USERRA qualified military leave in a position and with the benefits that he or she would have attained had he or she not been absent due to military service.

Benefits while on military leave will fully comply with USERRA, The Veterans Benefits Improvement Act of 2004 (VBIA), and The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). Employees on qualified military leave for more than 30 days can elect to maintain health insurance coverage for up to 24 months. Employees who elect this coverage will pay 102% of the associated insurance premium. Health insurance benefits will be immediately reinstated upon return from service.

### **Bereavement**

In the event of a death in your immediate family, you will be allowed up to three (3) normally scheduled consecutive working days off with pay immediately following the death to arrange for and/or attend the funeral. "Immediate family" is defined as current spouse, and your or your current spouse's mother, father, sister, brother, child, grandparents, great-grandparents and grandchildren.

One day is allowable in the case of death of "other family." "Other family" is defined as an aunt or uncle; aunt- or uncle-in-law; niece or nephew. Special consideration will also be given to any other person whose association with the employees was similar to any of the above relationships.

In the case of employee death, employees may attend the funeral without loss of pay with school leader's approval. You will be paid your regular daily rate, and satisfactory evidence may be required to support the leave. This benefit applies to full-time employees who have completed the orientation period.

### **Jury & Witness Duty**

An excused absence will be granted to all employees who are summoned for jury duty or to serve on a jury for the period of service. To obtain approval of the absence, it is necessary for you to submit a copy of the notification or summons to your supervisor immediately upon receipt of the document. The Company will pay full time employees their regular salary or wages (excluding overtime) provided that you turn your jury fee over to the Human Resource Department. You may keep compensation for mileage and other travel expenses.

If the jury duty assignment only requires less than three (3) hours of the work day, it is expected that the employee will return to complete the balance of the normal, regular work day and also to report for work on any regular scheduled working day when the court is not in session.

A jury report must be filed within 10 days of jury duty completion. Jury duty is to be reported as time off for jury duty on employee time sheets or exception reports.

An employee in Michigan who is a victim of crime and is subpoenaed or requested to attend court for the purpose of giving testimony or an employee who is a victim representative and desires to attend court during a victim's testimony will be granted an unpaid excused absence.

# **Employment**

## **Performance Evaluations**

Your job performance will be evaluated annually. Informal performance feedback will be expressed on an on-going basis. Advisors should meet on a quarterly basis to conduct goal setting and goal-setting follow up reviews.

At these performance review sessions, we accomplish two things:

1. **Review:** We want to review all of your tasks and behaviors so that we can provide feedback on how you are handling them. We will discuss your performance and efficiency. Naturally, we will make suggestions for improvement on those areas you are having difficulty with and compliment you on those you are doing well.
2. **Listen:** We want to listen to you. Each session is planned so that we can talk about your job. Many times the finest suggestions for improvement come from you. Together we can redirect our efforts in order to do better.

Factors to be considered in the evaluation include, without limitation:

- Knowledge of the job
- Quantity and quality of work
- Promptness in completing assignments
- Cooperation
- Initiative
- Reliability
- Attendance
- Judgment
- Acceptance of responsibility

At the time of the discussion with the Manager, the employee shall be given the opportunity to examine the written evaluation, correct inaccuracies, and make written comments concerning any aspects of the evaluation. The written evaluation shall then be made part of the employee's personnel file.

## **Promotions & Transfers**

Promotions to jobs of greater responsibility in the Company go to persons who have best prepared themselves for advancement by hard work, study, ability, and initiative. It is our policy to fill job openings by promotion whenever possible, as determined in the sole discretion of the Company. Skills, job performance, experience, ability to perform the job, and cooperation are only a few of several factors to be considered in the selection process.

At times the Company may transfer employees from one job to another, either at their own request or as a result of a decision by management. These transfers may be temporary or permanent. Such transfers allow for the more efficient utilization of personnel throughout the Company.



### **Reductions in Workforce and Recall**

It is the Company's goal to maintain full employment for everyone to the greatest extent possible. In the event that a reduction in workforce is necessary at the Company, the Company shall determine which employees will be affected based upon a number of factors, including need, department, qualifications, behaviors, productivity, and general performance. Should a re-hire be possible, the re-hire of previous employees shall be decided using the same factors. The exact method or manner of this reduction and subsequent re-hire will be left to the sole discretion of the Company. No vacation, holidays, or other paid time off will be earned by terminated employees following a reduction in workforce.

### **Resignation**

If, at some future time, you should decide to leave the Company, we ask that you provide your Manager with at least thirty (30) days' advance notice in order to permit the Company to hire and train a replacement for you.

All Company property must be returned and all debts settled with the Company on or before the last day of employment.

Upon termination of employment, an "exit" interview will be conducted by your Manager. This provides an opportunity for you to discuss the work situation, ask questions regarding your departure and offer suggestions for improvement in the work place.

## **Benefits**

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### **Total Compensation**

The Company provides a competitive wage and benefit program. The compensation program is designed to reward conscientious, productive employees and make their association with the Company a satisfying and rewarding experience.

Your total compensation consists of a combination of your direct and indirect pay. Your direct pay is the money you receive in your paycheck. Your indirect pay is "Employee Benefits," such as insurance benefits, which provide various forms of protection for you and your family. These benefits are largely provided for you at the Company expense. Although these benefits are not paid in the same form as the money in your paycheck, they represent an important part of your total compensation.

### **Wages**

It is the policy of the Company to pay wages and salaries which are based upon the nature of the job performed. Wage increases are intended to reward above-average job performance. Salary amounts are based on the agreed upon annual contracts or contract addendums.

### **Overtime**

Overtime compensation will be paid to all nonexempt employees who work in excess of forty (40) hours during the normal workweek. This overtime compensation shall be at one-and-one-half times the employee's established hourly rate.

Hours paid that are not actually worked, for example, holidays, vacation, etc., do not count as hours worked for overtime purposes. It is the Company policy to avoid overtime whenever possible. Therefore, hours in excess of one's regularly scheduled workday may not be worked without the prior approval of the employee's Manager.

### **Payday and Paychecks**

Employees will be paid every two weeks with Friday being payday. The work week begins on Saturday and ends the following Friday. On each payday employees will receive a statement showing gross pay, deductions, and net pay. City, state, federal, and Social Security (FICA) and other required taxes or withholdings will be deducted automatically.

Every effort is made to avoid errors in your paycheck. If you believe an error has been made, contact the Director of Finances and Operations. They will take the necessary steps to research the problem and to assure that any necessary correction is made properly and promptly.

### **Insurance Coverage**

The Company attempts to provide you with as many benefits as possible to make your employment here more pleasant and more rewarding. These benefits may be employer paid, employee paid, or we may share in the cost. Currently, the following third party benefits are available:

1. Health Insurance
2. Dental Insurance

3. Vision Insurance
4. Life Insurance
5. Long Term Disability Insurance
6. 401(k) Retirement Savings
7. Flexible Spending program

In its sole discretion, the Company reserves the right to alter, amend or delete any of these insurance benefits or other benefits described in the Handbook. Please see our current "Benefits Summary" for the most up to date offering.

Applicable Plan documents explain the benefits and eligibility requirements in further detail and at all times govern an employee's rights and obligations.

### **Government Required Coverage**

#### **Worker's Compensation**

The Michigan Worker's Compensation Law is a no-fault insurance plan which is supervised by the state and one hundred percent (100%) paid for by the company. This law was designed to provide you with benefits for any injury which you may suffer in connection with your employment. Under the provisions of the law, if you are injured while at work, you are eligible to apply for Worker's Compensation. The company aggressively manages claims and provides for light duty work to help employees return to productive work as soon as is possible.

#### **Unemployment Compensation**

The company pays a percentage of its payroll to the Unemployment Compensation Fund according to the company's employment history. If you become unemployed, you may be eligible for unemployment compensation, under certain conditions, for a limited period of time. Unemployment compensation provides temporary income for workers who have lost their jobs.

# **Employee Safety, Security & Health**

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## **Employee Safety**

The Company will provide a safe and healthy work environment for all employees. Employees are expected to comply with all safety requirements whether established by management or by federal, state, or local law. Any safety violation or any accidents resulting in injuries to employees should be reported immediately to the Director of Finances and Operations or Head of School. Safety equipment must be used at all times. Employees are responsible to:

- Know and follow all safety rules established for your site, department and job task.
- Promptly report any unsafe acts or conditions to your supervisor or company.
- Work in such a way that ensures our safety as well as the safety of co-workers.
- Help fellow employees with safety requirements.
- Request help when unsure of how to perform a task safely.
- Use and maintain all safety devices and guards as provided.
- Properly use and maintain all tools under our control.
- Maintain physical and mental health conducive to working safely.
- Perform work in ways that will not imperil others.
- Do not leave unsafe conditions on any jobsite.
- Abide by the safety rules of each owner on their sites.
- Work in strict compliance with OSHA standards.

## **Emergency Procedures**

Should evacuation of the building be necessary, employees shall follow instructions for evacuation procedures as established by the academy safety program. Employees are responsible for familiarizing themselves with all building exits and safe areas.

At times, emergencies such as severe weather, power failures, etc., can disrupt the academy's operations. In extreme cases, these circumstances may require the academy to close. In the event that such an emergency occurs during non-working hours, employees will be notified by the academy's established emergency notification procedure.

School personnel are expected to report to school unless notified by the school leader that school has been cancelled. In that event, school staff will be credited the day and the day will be added to the school calendar or to professional development as needed at the conclusion of the school year.

## **Accidents and Injuries**

All accidents, whether or not resulting in personal injury, that you are involved in that arise out of or during the course of your employment, involving Company vehicles or equipment, or people, no matter how trivial, must be reported immediately to your principal, the Director of Finances and Operations, with as much information as possible.

If necessary, in instances of personal injury, your principal or the DFO will see that medical attention is administered. Your Manager should also be notified if you become sick while at work and you will be given necessary assistance in these situations.

## **Additional Information**

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### **Personnel Records**

Company maintains a confidential personnel file on each member of the staff. The Company is committed to protecting the privacy of its current and former employees.

### **Open Door Policy**

It is important that management and employees maintain effective communications and understanding. A conscious effort is made at the Company to maintain close rapport among staff through an open door policy.

If an employee has a problem, a question, a complaint or concern relating to his/her employment and/or any decision affecting his/her employment, the employee should discuss it with his/her supervisor. If the employee does not feel comfortable with his/her supervisor, the employee should discuss the matter with the DFO, principal or chairperson of the CUE Board of Directors.

### **Disciplinary Procedure**

As in any organization, rules governing the conduct of all employees are as necessary as regulations governing the conduct of people who live in our community. We try to keep our rules to a minimum, but there are some which are necessary for the Company to run smoothly and for the protection of all employees.

Any employee who violates any of the Company's rules or general standards of good employee conduct shall be subject to disciplinary action at the sole discretion of the Company. While employment at the Company is at will, in some cases the disciplinary action may result in either verbal or written warnings, suspension or discharge. The Company will assess numerous factors in determining the degree of discipline rendered. Among others, these factors include severity of the conduct violation, impact on the Company, state and federal laws, extenuating facts and circumstances, and the general facts and circumstances of the incident. The following list of offenses is not meant to be all inclusive and is meant to be used as a guideline. Failure to use common sense and good judgment may also result in disciplinary action.

#### **Major/Serious Offenses**

- Abusing or destroying Company property or the property of others
- Using abusive or profane language
- Being convicted of a serious criminal offense
- Creating or contributing to unsanitary or unsafe conditions
- Deliberately restricting quantity and quality of work, or asking others to do the same
- Disclosing confidential Company information
- Discourteously treating other employees, vendors, customers, or visitors
- Unexcused absences or tardiness
- Failing to complete a day's work assignment
- Failing to report personal injury or accident occurring on the job or defective equipment
- Failing to use safety devices
- Falsifying of Company records

- Fighting, immoral conduct, threats or intimidation
- Gambling on Company time or premises
- Harassment of any type
- Horseplay and violating safety rules
- Insubordination
- Intimidating fellow employees or others
- Leaving your job without proper authorization
- Loafing or being away from your job unnecessarily
- Negligence or inferior work
- Performing personal work on Company time
- Possessing a dangerous or deadly weapon on Company time or premises
- Possessing, selling, using or being under the influence of drugs or alcoholic beverages on Company time or premises
- Refusing or failing to do a job assignment
- Removing Company equipment from the premises for personal use
- Reporting a false reason for absence
- Sexual or other unlawful harassment
- Sleeping on company property, even when off duty
- Theft or dishonesty
- Making or publishing of false, vicious or malicious statements concerning an employee or client's employee, the Company or its products
- Unauthorized carrying of passengers in Company vehicles
- Unauthorized use of Company property, records, tools, or equipment
- Violating safety rules
- Working another job while absent

#### **Other Offenses**

- Careless workmanship
- Deliberately distracting the attention of others
- Disregarding common safety practices
- Excessive time at rest periods
- Failing to attend scheduled meetings
- Failing to complete reports promptly and accurately
- Failing to follow instructions
- Failing to maintain acceptable standards of personal hygiene
- Improper language
- Leaving job before quitting time
- Posting written printed matter in any form on Company premises without Manager's approval
- Smoking
- Unauthorized solicitations or distributions
- Unsafe driving when entering or leaving Company property

#### **Disciplinary Tools**

Following is an example of a typical disciplinary tools utilized by the company; the company retains the right to discipline as needed based on individual situations and the severity of the issue. This policy is not intended to conflict with the Company's at-will employment relationship with all its employees. All employees of the Company are and will continue to be at-will employees. Either the

employee or the Company may terminate employment at any time, with or without cause, and with or without prior notice.

**Verbal Re-orientation:** To discuss the specific work-related problem and remind the associate about the policy concerning the issue – a Verbal Re-orientation may be documented in some way.

**Written Reminder:** When an associate breaks a policy for a second time or a more serious situation needs to be addressed, formal documentation will be produced to reinforce the policy and how important it is to follow the policies and procedures in order to be successful.

**Final Written Reminder:** For the most serious situations that do not warrant immediate separation, or if the situation has been addressed previously, a letter is sent to remind the employee of the policy again and that any further violations will result in termination.

**Termination:** At this point, the employee has terminated his/her own employment by violating the policy again or they have committed a policy violation so severe that immediate separation is warranted.

### **Personal Appearance**

We want to stress the importance of personal appearance and cleanliness. A well-groomed employee makes a good impression both for the Company and the employee. Therefore, all employees shall maintain the highest standards of personal cleanliness and grooming and shall present a neat, professional, appearance at all times during working hours.

### **Smoking**

As you know, smoking, already defined as a definite health hazard to the smoker, is being implicated in many illnesses suffered by the nonsmoker. By state law, smoking will not be permitted on school property.

### **Substance Abuse Policy**

The company recognizes that alcohol and drug abuse in the work place have become major concerns. We believe by reducing drug and alcohol abuse we will improve the safety, health and productivity of team members. CUE will comply with the Drug Free Workplace Act of 1988.

The use, possession, sales, transfer, delivery, purchase or being under the influence of alcoholic beverages, illegal drugs or other intoxicants by team members at any time on company premises or while on company business is prohibited. The illegal use of any drug, narcotic or controlled substance is prohibited. Team members must not report for duty or be on company property while under the influence of, or have in their possession any alcoholic beverage, marijuana or illegally obtained drug, narcotic or other illegal substance.

The Company reserves the right to send a team member in for drug testing or alcohol testing at any time if the team member is suspected of drug use. In addition, the Company reserves the right to do universal drug testing at random and reserves the right to terminate any team member found with a positive drug test. If an accident or safety incident occurs during work, the team member will be required to take a drug test and alcohol test.

Confirmation of any use as listed above is not tolerated and will result in immediate discharge.

An employee who is taking drugs prescribed by a licensed physician who may diminish his/her ability to work safely must inform a member of management at the Company prior to beginning

work. For safety reasons, such an employee may be required to perform duties other than those scheduled to be assigned or take a leave of absence rather than be permitted to work under the influence of prescribed medication.

Also, pursuant to the Drug Free Workplace Act of 1988, you must notify the Company of any criminal drug statute conviction for a violation occurring in the course of employment. This notification must be given within five (5) days after such conviction.

All employees must abide by the terms of this Substance Abuse Policy if they are to remain employees of the Company. **FOR EVERYONE'S HEALTH AND SAFETY, PLEASE HELP US MAINTAIN A DRUG AND ALCOHOL-FREE WORK ENVIRONMENT.**

### **Electronic Communication Policy**

Computers, computer files, telephones, cell phones, voicemail systems, the E-mail system, software, and any other electronic devices or related parts (collectively referred to as "electronic devices") furnished to employees are The Henry Ford Academy: School for Creative Studies property to assist users in performing their jobs and advance the mission and goals of the Company. The electronic devices, including E-mail, Internet, telephone, voice mail systems and the computers and software are to be used for business related purposes. The Company treats *all* documents, data and messages sent, received, created, edited, or stored in any electronic device including E-mail, Internet, computer or voice mail systems as shared, non-confidential messages. Users must apply the same standards and care to their electronic communications as with other forms of communication (written or oral). Inappropriate use can have serious consequences both for the Company and the employees.

1. The use of the computer system and its or other electronic devices is consent by the employee to all monitoring of his/her use by the Company. The log-on procedures and passwords do not give rise to any employee expectation of privacy. Employee recognizes the Company's right to monitor all use with or without additional notice to the user or further employee consent to such action of the Company. Employees should, however, protect their passwords so that others do not abuse it and their workstation. The Company has the capability to, expressly reserves the right to, and will from time to time, access, review, copy and delete any information sent, received, created, edited, or stored in the E-mail (including E-Mails accessed (sent or received) from third party servers), Internet, or voice mail systems or with use of Company computers and its electronic devices, to the extent permitted by applicable law for legitimate business purposes. The Company may disclose such information to any party (inside or outside the Company) it deems appropriate.
2. The Company prohibits the use of its electronic devices, including its computers, the Internet, telephones, voice mail or the e-mail system to harass, insult or intimidate, or use in any way that is disruptive or harmful to employees; to engage in any unlawful activity, enterprise or scheme; to transmit defamatory, obscene, offensive or harassing information; to transmit information that discloses personal information without authorization or to otherwise use in any other way that is in violation of Company policies. For example, but not by way of limitation, the display or transmission of sexually explicit images, messages, cartoons, ethnic slurs, racial comments, off-color jokes or anything that may be construed as harassment is not allowed. Employees should not send confidential or proprietary documents over the internet without the approval of his or her supervisor.
3. The Company purchases and licenses the use of various computer software for business purposes and does not own the copyright to this software or its related documentation. Unless authorized by the software developer, the Company does not have the right to reproduce such



software for use on more than one computer. Employees may only use software on local area networks or on multiple computers according to the Company's software license agreement. The Company prohibits the illegal duplication or downloading of software and its related documentation. Use of the E-mail system or the Internet to copy and/or transmit any documents, software, or other information protected by the copyright laws is prohibited. The installation or use of computer games or any other unauthorized software is a violation of Company policy and will not be permitted. Any questions regarding the use of the system or software should be addressed to the DFO or your principal.

4. Company rules for document retention apply to all electronic communications. Electronic material/communications can be required as evidence in legal proceedings.
5. Employees must know and recognize that the use of deletion keystroke does not necessarily mean that the document has been eliminated from the computer system.
6. Employees may not send any form of a personal chain letter or mass mailings (including virus warnings) to other individuals or groups. Mass mailings and chain letters refer to emails addressed to more than four individuals.
7. Viruses can quickly spread from one location throughout the entire affiliate. If you suspect that you have a virus, shut down your computer and contact the IT Department.

#### **E-mail**

Always consider the following protocol before you send an e-mail:

1. E-mail access is provided for Company business.
2. Always use business-like and clear language.
3. Only use Company provided or authorized mail systems.
4. Always use the utmost care, sufficient discretion, and security when sending confidential and proprietary business information by e-mail.
5. Always keep your passwords private. Unauthorized use of another employee's ID is strictly prohibited. Never send an email under someone else's name.
6. When you leave your work area, log off your e-mail or institute a password to protect your workstation.
7. If you change any e-mail before forwarding it, clearly indicate every change.
8. Type "DO NOT FORWARD" on any email you do not want forwarded, and don't forward email marked "DO NOT FORWARD."
9. Never use profanity, inappropriate language, or send discourteous or offensive e-mails.
10. Don't read misdirected e-mails; return them to their senders.
11. Don't expect e-mail to be private.
12. Inappropriate use of e-mail should be reported immediately to Management.

13. Remember, e-mail is not always the most appropriate method of communicating. Depending on the circumstances, a phone call, memo, or face-to-face meeting may be better.

**Threatening E-Mails:** A user who receives a threatening e-mail at the office or home should:

1. Keep the e-mail in their mailbox.
2. Forward a copy of the e-mail to IT personnel and your immediate supervisor.
3. Notify the Director of Finances and Operations or your principal.

### **Internet**

The Internet represents a valuable resource to the Company for specifically defined business functions and to promote the mission of the Company. It also exposes the Company in an unprecedented and highly visible fashion as compared to a secured network. The Company may be implicated for a range of inappropriate or unethical use by individuals who were provided Internet access.

1. Use of Company-provided Internet services to access, download or send material that is not business related is prohibited. The Internet is to be used primarily for business purposes.
2. Transmission of sensitive and proprietary business information over the Internet is strongly discouraged, unless required to meet a critical business need. Manager's approval should be obtained in advance.
3. Software and data that is obtained from the Internet must not violate the intellectual property rights of others.
4. Business functions or divisions electing to publish on the Internet must first secure the necessary Company approvals and maintain an ongoing approval process when the content of published information changes.
5. Certain sites lacking sufficient business justification or that interfere with the operations of Company information technology may be blocked.
6. Where applicable, the same policies and rules covering communication or material (i.e., content, appropriateness, security, business purpose) outlined above apply equally to Internet usage.
7. Employees may not post any electronic communication that could be misconstrued as an endorsement by the Company, or could reflect negatively on the Company. Be aware that items posted to Internet bulletin boards, mailing lists, and others, are identified by the Company staff e-mail address.
8. If you feel you must utilize a site for research and/or teaching that could be construed as inappropriate by a reasonable person/parent, you must first consult with the Assistant Superintendent and receive written authorization. Failure to do so may lead to disciplinary action up to and including termination.

Limited personal use of the Internet is allowed by the Company. However, the employee-user is reminded that use of any and all Company property is primarily for the purpose of Company business. Any personal use of the Internet is expected to be on the user's own time and is not to interfere with the person's job responsibilities.

This policy should be read and interpreted in conjunction with all other Company policies including but not limited to policies prohibiting harassment, discrimination, offensive conduct or inappropriate behavior. Employee-users are prohibited from accessing the Internet for any unethical purposes, including pornography, violence, gambling, racism, harassment, or any illegal activity.

Violation of this policy, or the failure to report any violations of this policy, can lead to disciplinary action up to and including discharge.

### **Dangerous Weapons**

CUE will not tolerate the possession of weapons or any other device designed to inflict serious harm by any employee while on school property or at an academy-sponsored event.

Any employee on academy premises or property being used by the academy for school purposes may be charged with felony if found to possess a weapon or other device designed to inflict serious bodily harm. This restriction applies to employees licensed to possess firearms unless serving as an authorized security officer.

The school leader shall ensure that any employee possessing a weapon or other device designed to inflict bodily harm is reported immediately to the appropriate law enforcement agency. The employee shall be disciplined, up to and including termination of employment.

### **One Last Reminder**

This Employee Handbook does not include all of the rules and regulations applicable to the Company employees and is subject to interpretation and application within the sole discretion of the Company based upon the facts of each particular case, including the right not to follow the Handbook where deemed appropriate by an officer of the Company.

The Company reserves the right to make any changes to this Employee Handbook including the right to modify or delete any rule, job assignment or requirement, policy or benefit.

This Employee Handbook is not a contract for a specific term of employment, guarantee of benefits, working conditions or privileges of employment, and does not alter the at-will employment relationship between the Company and all employees as set forth above.

Notes:

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## EMPLOYEE ACKNOWLEDGMENT FORM

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I acknowledge receipt of the CUE/The Henry Ford Academy: School for Creative Studies Employee Handbook edition noted below.

The employee Handbook describes important information about the Company, and I understand that I should consult the Assistant Superintendent or Human Resource Department regarding any questions not answered in the Handbook. In consideration of my employment with the Company I agree to conform to the rules and policies of the Company. I have entered into my employment relationship with the Company voluntarily and acknowledge that there is no specified length of employment. **I UNDERSTAND THAT MY EMPLOYMENT WITH THE COMPANY IS AT-WILL WHICH MEANS THAT EITHER I OR THE COMPANY CAN TERMINATE THE RELATIONSHIP AT ANY TIME, WITH OR WITHOUT CAUSE, AND WITH OR WITHOUT NOTICE.** I understand that I can not rely upon any oral representations to the contrary and that only a separate written agreement which specifies the term of employment and which is signed by the President of the Company shall modify my at-will employment status.

Since the information, policies, and benefits described herein are necessarily subject to change, I acknowledge that revisions to the Handbook may occur, except to the Company policy of employment-at-will. All such changes will be communicated through official notices, and I understand that revised information may supersede, modify, or eliminate existing policies.

Furthermore, I acknowledge that this Handbook is neither a contract of employment nor a legal document. I have received the Handbook, and I understand that it is my responsibility to read and comply with the policies in this Handbook and any revisions made to it.

EMPLOYEE'S NAME  
(PRINTED): \_\_\_\_\_

EMPLOYEE'S SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

The Henry Ford Academy: School for Creative Studies Updated: April 2008

**[I UNDERSTAND THAT A SIGNED COPY OF THIS ACKNOWLEDGEMENT WILL  
BE KEPT IN MY PERSONNEL FILE.]**

**Employee Handbook  
(Draft)**

**Creative Urban Education  
The Henry Ford Academy: School for Creative Studies**

**SCHEDULE 10-4**

**FISCAL AGENT AGREEMENT**

The Fiscal Agent Agreement is attached.

## **FISCAL AGENT AGREEMENT**

This Agreement is part of the Contract issued by the Grand Valley State University Board of Trustees ("University Board"), an authorizing body as defined by the Revised School Code, as amended (the "Code"), to the Public School Academies of Detroit, an urban high school academy ("Academy").

### **Preliminary Recitals**

WHEREAS, pursuant to the Code and the Contract, the University Board, as authorizing body, is the fiscal agent for the Academy, and

WHEREAS, the University Board is required by law to forward any State School Aid Payments received from the State of Michigan ("State") on behalf of the Academy to the Academy,

NOW, THEREFORE, in consideration of the premises set forth below, the parties agree to the following:

## **ARTICLE I**

### **DEFINITIONS AND INTERPRETATIONS**

Section 1.01. **Definitions.** Unless otherwise provided, or unless the context requires otherwise, the following terms shall have the following definitions:

"Account" means an account established by the Academy for the receipt of State School Aid Payments at a bank, savings and loan association, or credit union which has not been deemed ineligible to be a depository of surplus funds under Section 6 of Act No. 105 of the Public Acts of 1855, being Section 21.146 of the Michigan Compiled Laws.

"Agreement" means this Fiscal Agent Agreement.

"Fiscal Agent" means the University Board or an officer or employee of Grand Valley State University as designated by the University Board.

"Other Funds" means any other public or private funds which the Academy receives and for which the University Board voluntarily agrees to receive and transfer to the Academy.



"State School Aid Payment" means any payment of money the Academy receives from the State School Aid Fund established pursuant to Article IX, Section 11 of the Michigan Constitution of 1963 or under the State School Aid Act of 1979, as amended.

"State" means the State of Michigan.

"State Treasurer" means the office responsible for issuing funds to urban high school academies for State School Aid Payments pursuant to the School Aid Act of 1979, as amended.

Section 1.02. Fiscal Agent Agreement Incorporated into Contract: Use of Contract Definitions. This Fiscal Agent Agreement shall be incorporated into and is part of the Contract issued by the University Board to the Academy. Terms defined in the Contract shall have the same meaning in this Agreement.

## ARTICLE II

### FISCAL AGENT DUTIES

Section 2.01. Receipt of State School Aid Payments and Other Funds. The University Board is the Fiscal Agent for the Academy for the limited purpose of receiving State School Aid Payments. By separate agreement, the University Board and the Academy may also agree that the University Board will receive Other Funds for transfer to the Academy. The Fiscal Agent will receive State School Aid Payments from the State, as provided in Section 3.02.

Section 2.02. Transfer to Academy. Except as provided in the Contract, the Fiscal Agent shall transfer all State School Aid Payments and all Other Funds received on behalf of the Academy to the Academy within ten (10) business days of receipt or as otherwise required by the provisions of the State School Aid Act of 1979 or applicable State Board rules. The State School Aid Payments and all Other Funds shall be transferred into the Account designated by a resolution of the Board of Directors of the Academy and by a method of transfer acceptable to the Fiscal Agent.

Section 2.03. Limitation of Duties. The Fiscal Agent has no responsibilities or duties to verify the Academy's pupil membership count, as defined in the State School Aid Act of 1979, as amended, or to authorize, to approve or to determine the accuracy of the State Aid School Payments received on behalf of the Academy from the State Treasurer. The duties of the Fiscal Agent are limited to the receipt and transfer to the Academy of State School Aid Payments and Other Funds received by the Academy. The Fiscal Agent shall have no duty to monitor or approve expenditures made by the Academy Board.

Section 2.04. Academy Board Requests for Direct Intercept of State School Aid Payments. If the Academy Board directs that a portion of its State School Aid Payments be forwarded by the Fiscal Agent to a third party account for the payment of Academy debts and liabilities, the Academy shall submit to the University Charter Schools Office: (i) a copy of the Academy Board's resolution authorizing the direct intercept of State School Aid Payments; and (ii) a copy of a State School Aid Payment Agreement and Direction document that is in a form and manner acceptable to the Fiscal Agent. No State Aid Payment Agreement and Direction document shall be effective until it is acknowledged by the University President.

### ARTICLE III

#### STATE DUTIES

Section 3.01 Eligibility for State School Aid Payments. The State, through its Department of Education, has sole responsibility for determining the eligibility of the Academy to receive State School Aid Payments. The State, through its Department of Education, has sole responsibility for determining the amount of State School Aid Payments, if any, the Academy shall be entitled to receive.

Section 3.02. Method of Payment. Each State School Aid Payment for the Academy will be made to the Fiscal Agent by the State Treasurer by issuing a warrant and delivering the warrant to the Fiscal Agent by electronic funds transfer into an account specified by the Fiscal Agent, or by such other means deemed acceptable to the Fiscal Agent. The State shall make State School Aid Payments at the times specified in the State School Aid Act of 1979, as amended.

### ARTICLE IV

#### ACADEMY DUTIES

Section 4.01. Compliance with State School Aid Act. In order to assure that funds are available for the education of pupils, an Academy shall comply with all applicable provisions of the State School Aid Act of 1979, as amended.

Section 4.02. Expenditure of Funds. The Academy may expend funds that it receives from the State School Aid Fund for any purpose permitted by the State School Aid Act of 1979 and may enter into contracts and agreements determined by the Academy as consistent with the purposes for which the funds were appropriated.

Section 4.03. Mid-Year Transfers. Funding for students transferring into or out of the Academy during the school year shall be in accordance with the State School Aid Act of 1979 or applicable State Board rules.

Section 4.04. Repayment of Overpayment. The Academy shall be directly responsible for reimbursing the State for any overpayments of State School Aid Payments. At its option, the State may reduce subsequent State School Aid Payments by the amount of the overpayment or may seek collection of the overpayment from the Academy.

Section 4.05. Deposit of Academy Funds. The Academy Board agrees to comply with Section 1221 of the Revised School Code, being MCL 380.1221, regarding the deposit of State School Aid Payments and Other Funds received by the Academy.

## ARTICLE V

### RECORDS AND REPORTS

Section 5.01. Records. The Fiscal Agent shall keep books of record and account of all transactions relating to the receipts, disbursements, allocations and application of the State School Aid Payments and Other Funds received, deposited or transferred for the benefit of the Academy, and these books shall be available for inspection at reasonable hours and under reasonable conditions by the Academy and the State.

Section 5.02. Reports. The Fiscal Agent shall prepare and send to the Academy within thirty (30) days of September 1, 2009, and annually thereafter, a written report dated as of August 31 summarizing all receipts, deposits and transfers made on behalf or for the benefit of the Academy during the period beginning on the latter of the date hereof or the date of the last such written report and ending on the date of the report, including without limitation, State School Aid Payments received on behalf of the Academy from the State Treasurer and any Other Funds which the University Board receives under this Agreement.

## ARTICLE VI

### CONCERNING THE FISCAL AGENT

Section 6.01. Representations. The Fiscal Agent represents that it has all necessary power and authority to enter into this Agreement and undertake the obligations and responsibilities imposed upon it in this Agreement and that it will carry out all of its obligations under this Agreement.

Section 6.02. Limitation of Liability. The liability of the Fiscal Agent to transfer funds to the Academy shall be limited to the amount of State School Aid Payments as are from time to time delivered by the State and the amount of Other Funds as delivered by the source of those funds.

The Fiscal Agent shall not be liable for any action taken or neglected to be taken by it in good faith in any exercise of reasonable care and believed by it to be within the discretion or power conferred upon it by this Agreement, nor shall the Fiscal Agent be responsible for the consequences of any error of judgment; and the Fiscal Agent shall not be answerable except for its own action, neglect or default, nor for any loss unless the same shall have been through its gross negligence or willful default.

The Fiscal Agent shall not be liable for any deficiency in the State School Aid Payments received from the State Treasurer to which the Academy was properly entitled. The Fiscal Agent shall not be liable for any State School Aid overpayments made by the State Treasurer to the Academy for which the State subsequently seeks reimbursement.

Acknowledgment of Receipt

The undersigned, on behalf of the State of Michigan, Department of Treasury, acknowledges receipt of the foregoing Fiscal Agent Agreement that is part of the Contract issued by the University Board to the Academy.

BY: Joseph L. Fielek  
Joseph L. Fielek, Director  
Bureau of Bond Finance  
Michigan Department of Treasury

Date: Jan. 3, 2008

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## **SCHEDULE 10-5**

### **METHODS OF ACCOUNTABILITY AND PUPIL ASSESSMENT**

HFA: SCS will use a variety of performance assessments to pinpoint individual students' strengths and areas for additional work, provide differentiated support, and gauge the success of: HFA: SCS academic programs; preparation of students for college and careers; establishment of a caring and nurturing school community; the promotion of an effective professional learning community; and the management of data and information that can be used to measure both student and overall school progress and inform decision making. HFLI maintains that standardized test scores cannot provide an overall portrait of a student's authentic achievement or a school's ability to achieve its mission. In support of this belief HFA: SCS will complement the standardized tests with locally developed, formative tools and authentic measures of student achievement.

The Academy will administer self-selected and mandated standardized tests to assess student achievement and progress in core academic areas and to ensure alignment with Michigan's GLCE and HSCE, and with the beginning of the 2012-2013 school year, Common Core Standards. Below is a tentative schedule of standardized assessments for the HFA: SCS that assumes the EPAS System with both released (archived) versions and annual current version (EXPLORE for 8<sup>th</sup> and 9<sup>th</sup>, PLAN for 10<sup>th</sup> and 11<sup>th</sup>, ACT for 11<sup>th</sup> and 12<sup>th</sup>) and the use of MAP, as a test sequence and the diagnostic test to be used at enrollment. MAP is a state-aligned computerized adaptive assessment program that provides educators with the information they need to improve teaching and learning. Educators use the growth and achievement data from MAP to develop targeted instructional strategies and to plan school improvement.

#### **MAP tests:**

- Are aligned to each state's measurement scales and content standards, and are often used as indicator or preparedness for state assessments.
- Are grade independent allowing educators to monitor a student's academic growth.
- Dynamically adjust to each student's performance level, providing an accurate indication of her or her instructional level.
- Report scores as norm-referenced, achievement, and growth, providing different perspectives on an individual student's learning.

### Standardized Assessments:

Elementary School: MEAP, MAP,

Middle School: MEAP, MAP

High School: MME, ACT testing system, MAP

	Mathematics	English/Lang Arts	Science	Social Studies
3 <sup>rd</sup> grade	MEAP, MAP	MEAP, MAP	MEAP, MAP	
4 <sup>th</sup> grade	MEAP, MAP	MEAP, MAP	MEAP, MAP	
5 <sup>th</sup> grade	MEAP, MAP	MEAP, MAP	MEAP, MAP	
6 <sup>th</sup> grade	MEAP, MAP	MEAP, MAP	MEAP, MAP	MEAP
7 <sup>th</sup> grade	MEAP, MAP	MEAP, MAP	MEAP, MAP	
8 <sup>th</sup> grade	MEAP, MAP	MEAP, MAP	MEAP, MAP	MEAP
9 <sup>th</sup> grade	MAP, EXPLORE	MAP, EXPLORE	MAP, EXPLORE	MAP, EXPLORE
10 <sup>th</sup> grade	MAP, PLAN	MAP, PLAN	MAP, PLAN	PLAN
11 <sup>th</sup> grade	MME, MAP	MME, MAP	MME, MAP	MME
12 <sup>th</sup> grade	MME	MME	MME	MME

Multiple times each year, Academy teachers will administer the MAP reading, math, and science tests for all students in appropriate grade levels. By doing so, the Academy will be able to 1) make initial scheduling decisions for secondary Language Arts, Math and Science courses and 2) teachers and staff will be able to make adjustments to help students strengthen their foundations in these areas. In addition, because the MAP test is computerized and adjusts to each student's performance level, staff will be able to pinpoint individual students' strengths and areas for additional work, and provide differentiated support. The Academy staff will use the cohort results as well as the individual item responses (where available) from the EXPLORE, PLAN and MEAP/MME tests to assess the effectiveness of the curriculum in a particular grade. Individual scores will also be used to target students who may need more challenge or more support to meet the Academy's high expectations. Additionally, the analysis and information from the included college and career interest surveys in PLAN will be used for personalized counseling with students. At the elementary school level, Fountas and Pinnell Benchmark Testing will be used to assess growth in reading multiple times each year.

### Curricular Assessments in the Elementary School program:

HFA: SCS will have several proprietary assessment tools, including:

- Art and Design Portfolios – All students will develop an ongoing portfolio of high quality art and design work.
- Quarterly formative assessment locally developed and implemented by teachers. Directly aligned with the curriculum and Common Core Standards.
- Tests, quizzes, projects and daily assignments.
- 5<sup>th</sup> grade Step Up capstone project

**Curricular Assessments in the Middle and High School programs:**

HFA: SCS will have several proprietary assessment tools, including:

- College and Career Readiness Report Cards - completed on an annual basis, with progress reviewed twice each year in parent-student-teacher meetings.
- Art and Design Portfolios – All students will develop an ongoing portfolio of high quality art and design work.
- Senior Mastery Defense - Students' high school careers and the Senior Mastery Process will culminate with a defense process that includes a presentation and committee review. Successful Senior Mastery Defense presentations will demonstrate a student's proficiency in each of the Five Developmental Areas.
- 8<sup>th</sup> grade Step Up capstone project

**Public School Academies of Detroit (PSAD)  
Enrollment Guidelines & Admission Policies for the 2010-2011 School Year**

A public lottery for each grade offered at each PSAD school will be held at each PSAD district when there are more applicants than openings for that particular PSAD school to assign seats to new students and to assign the order of the waitlist for any new seats that become available. Siblings of students returning for the 2010-2011 school year and newly accepted students for the 2010-2011 school year will be given priority for admission in the order detailed below.

The priorities for admissions will be conducted in the following order:

**Priority 1: Siblings\* of 2010 Graduates and Students Returning for the 2010-2011 School Year**

Siblings of students returning for the 2010-2011 year are given 1<sup>st</sup> priority to their siblings PSAD district. If there are more of these siblings than classroom spaces available in a given grade, the PSAD School will hold a random selection lottery for the classroom spaces from among the siblings in that grade. The remaining siblings will be placed on the waitlist based on the number they receive in the sibling random selection process ("Lottery") as long as they submitted an application during the open enrollment period. Note: Sibling priority does not range across PSAD districts.

**Priority 2: PSAD Transfer Students**

Any student enrolled in any grade at any PSAD School in the preceding school year will be given transfer student priority (priority 2) provided there is sufficient classroom space available. Transfer student priority is given in the following manner: students enrolled in a PSAD School the previous academic year who apply during open enrollment to the school they wish to transfer to will receive second priority. Each PSAD School will hold a Lottery for transfer students in that grade. These students will be placed on the waitlist below the priority 1 students based on the number they receive in the transfer student Lottery. Students who are transferring between University Preparatory Academy and University Prep Science & Math must declare in which system they wish to enroll for the 2010-11 school year by the school decision deadline date. University Preparatory Academy and University Prep Science & Math will not accept such transfer students for enrollment in the 2010-2011 school year after the school decision deadline.

**Priority 3: Children of Persons employed at PSAD schools or Children of PSAD Board of Directors**

These children (including by Michigan law all adopted children or legal wards) are placed behind Priority 2 students based on the number they receive in the Lottery as long as they submitted an application during the open enrollment period.

**Priority 4: Siblings\* of Newly Accepted Students**

Siblings of newly accepted students (students who are accepted for enrollment for the 2010-2011 school year) are placed behind Priority 3 students based on the number they receive in the Lottery on the waitlist within the same district their sibling was accepted as long as they submitted an application during the open enrollment period. Note: a sibling in one PSAD district does not provide a basis for sibling priority in another PSAD district.

**NOTE: Any sibling that DOES NOT submit an application during open enrollment will NOT be given sibling preference.**

\* Sibling Determination--Siblings who receive preference include:

- a. Full siblings (children who share the same mother and father) regardless of whether the full siblings live in the same household.
- b. Step-siblings/half-siblings who live in the same household\*\* Step-siblings and half-siblings who DO NOT live in the same household DO NOT receive the preference.

\*\* They must live in the same household at the time they apply. If the student moves in with their sibling they need to reapply at that time and the old application is deleted. The parent may be asked to supply some sort of proof of residence for the student



**Priority 5: New Applicants with No Siblings at the PSAD district in which they are applying**

Students who apply during open enrollment but do not win a seat in the Lottery and who do not have a sibling at the PSAD district in which they are applying will be placed on the waitlist based on the number they received in the lottery below priority 4 students.

**Priority 6: Applicants Applying After Open Enrollment**

Students who apply after open enrollment (all applications received after the deadline date) will be placed on the waitlist behind the Priority 1, 2, 3, 4, and 5 applicants based on the date and time their application is received. **This includes siblings that submit applications after the deadline.**

**Public School Academies of Detroit (PSAD)**  
**Enrollment Guidelines & Admission Policies for the 2010-2011 School Year**

**1.) Purpose**

The purpose of this policy is to outline the enrollment policy and process for the Public School Academies of Detroit ("PSAD") for the enrollment of students into its urban academies. Grand Valley State University Board of Trustees ("University Board") has authorized PSAD under Part 6c of the Revised School Code to operate one or more urban academies, including but not limited to University Preparatory Academy, University Prep Science and Math, and Henry Ford Academy. School for Creative Studies schools individually a "PSAD School" or collectively "PSAD Schools").

**2.) Open Enrollment Dates**

Open Enrollment will last the duration of one month. Applications can be picked up from each of the school campuses between 8:00am and 4:00pm on school days or on their website. All applications must be received by 1:00pm on the last day of Open Enrollment, the deadline date, in order to be considered for the random selection process ("Lottery").

**3.) Re-enrollment of current students**

Students currently enrolled in any PSAD school in the preceding school year will be automatically admitted for the next school year to that same PSAD district.

**4.) PSAD Transfer Students**

Any student enrolled at any PSAD School in the preceding school year will be given transfer student priority (priority 2) provided there is sufficient classroom space available. Transfer student priority is given in the following manner: students enrolled in a PSAD School the previous academic year who apply during open enrollment to the school they wish to transfer to will receive second priority. Each PSAD School will hold Lottery for the classroom spaces from among the transfer students in that grade. These students will be placed on the waitlist below the priority 1 students based on the number they receive in the transfer student Lottery. Students who are transferring between University Preparatory Academy and University Prep Science & Math must declare in which system they wish to enroll for the 2010-11 school year by the school decision deadline date. University Preparatory Academy and University Prep Science & Math will not accept such transfer students for enrollment in the 2010-2011 school year after the school decision deadline.

**5.) Siblings who receive preference include:**

Siblings of currently enrolled students receive the 1<sup>st</sup> priority in enrollment with Siblings of newly accepted students receiving 4<sup>th</sup> priority. See Enrollment Guidelines (reverse) for more information regarding sibling priority.

**6.) Children of Persons Employed at a PSAD School & PSAD Board of Directors**

Children of persons working at PSAD schools and children of PSAD board of directors who apply during open enrollment receive third priority before the Lottery. If there are more children of persons working at a PSAD School and PSAD board of directors applying than classroom spaces available in a given grade, the PSAD school will hold a Lottery which will include these children and all other applicants. The children will be put on the waitlist for that grade in the order of random selection number received, just below the 2<sup>nd</sup> priority students.

**7.) Enrollment for under-subscribed grades/sibling preference**

Priority 1 students will be automatically admitted for the next school year to each grade that does not reach full enrollment by the Deadline Date. Transfer students have the next priority in enrollment. If Full Enrollment for a particular grade is not reached by the Deadline Date, PSAD will continue to receive applications for that grade level as long as necessary to complete Full Enrollment. Applications received after the Deadline Date will be enrolled in order of receipt.

**8.) Enrollment for over-subscribed grades**

Students will be selected for admission by random lottery for each grade that exceeds Full Enrollment if their applications were received by the Deadline Date. Applications received after the Deadline Date for each grade that has reached Full Enrollment will be added to the official waiting list in the order in which they are received. Kindergarten students must attain the age of five (5) years on or before December 1<sup>st</sup> of the year for which they are applying, to be eligible for the Lottery.

**9.) Lottery**

A random selection process is required if the number of applications exceeds the number of available spaces. Prior to the application period, the PSAD School shall do the following: (1) establish written procedures for conducting a random selection process; (2) establish the maximum number of spaces available per grade or grouping level; (3) establish the date, time, place and person to conduct the random selection process; and (4) notify the University Board Charter Schools Office of both the application period and the date of the Lottery, if needed. The University Board Charter Schools Office may have a representative on-site to monitor the random selection process. The PSAD School shall use a credible, neutral "third party" such as a CPA firm, government official, ISD official or civic leader to conduct the Lottery. Further, the PSAD School shall conduct the random selection process at a public meeting where parents, community members and the public may observe the process, and use a system that guarantees fairness and does not give an advantage to any applicant.

he PSAD School shall notify applicants not chosen in the random selection process that they were not selected and that their name has been placed on the PSAD school's official waiting list for openings that may occur during the academic year. Students shall appear on the official waiting list in the order they were selected in the random selection process.

**10.) Record of enrolled students**

As students are selected for admission, their names will be recorded on the Chart of Admitted students.

**11.) School Decision Deadline**

Parents of students that applied to University Preparatory Academy and University Prep Science & Math school districts and are accepted to either school, must choose which school they wish to attend by the School Decision Deadline. Students already enrolled the previous school year in either district will be considered applicants to that system for the coming school year. Declaring their school choice automatically moves that student off of the waitlist or acceptance list of the district they do not choose. Having declared their school choice, a family will not be eligible to transfer their child to the other system until the following school year via that system's open enrollment and lottery process. This does not apply to students accepted at HIA SCS

**12.) Enrollment Requirements**

- PSAD shall not discriminate on the status as a handicapped person or any other basis that would be illegal for an existing school district.
- PSAD shall provide for the education of its pupils without discrimination as to religion, creed, race, sex, color or national origin. The Academy shall comply with all state and federal civil rights laws.
- PSAD shall not charge tuition (but may charge fees in the same manner as existing public schools).
- PSAD shall not enroll any student who is not a resident of this state, except a foreign exchange student.
- PSAD shall comply with all state and federal laws applicable to public schools concerning church-state issues
- PSAD may establish a policy providing enrollment priority to enrolled pupils of a PSAD School, siblings of currently enrolled pupils, children of a person who is employed by or at a PSAD School, or children of PSAD Board Members (See priority on reverse side).
- PSAD shall provide legal notice indicating Open Enrollment for each PSAD school in a local newspaper.

# Henry Ford Academy: School for Creative Studies

## SCHEDULE 10-7 SCHOOL CALENDAR AND SCHOOL DAY SCHEDULE

### A. Henry Ford Academy: School for Creative Studies Proposed Academic Calendar

#### Proposed Academic Calendar for 2012/2013 (DRAFT)

2012	Event	2013	Event
Aug. 6-17	Teachers' Summer Curriculum Workshops/New Staff Induction Institute	Jan. 7	School Resumes
Aug. 20-30	Teachers' Summer Institute	Jan. 14	Martin Luther King, Jr. Day (school closed)
<b>Sept. 4</b>	<b>School Opening - First day of school</b>	<b>Jan. 17, 18</b>	<b>1<sup>st</sup> Semester Exams (½ Days of School)</b>
Sept. 10-21	MAP Testing Window	Jan 21	Staff Professional Development
Oct. 3, 4	Parent Teacher Conferences	Jan 22-25	InterSession (Jan 25 – ½ Day for Students)
Oct. 4, 5	½ Days for students, full days for staff	Jan 28	First Day of 3 <sup>rd</sup> Quarter
Oct. 8	Staff Professional Development	Feb. 18-19	Mid-Winter Break (school closed)
Oct. 9-26	MEAP Testing Window	Mar. 5 – 21	MME Testing Window
Nov. 1, 2	1 <sup>st</sup> Quarter Assessments (½ Days for Students)	Mar. 6, 7	Parent Teacher Conferences
Nov. 5-9	InterSession (Nov 9 – ½ Day for Students)	Mar 7, 8	½ Days for Students, full days for staff
Nov. 6	Staff Professional Development	Mar. 29-Apr.7	Spring Break (school closed)
Nov. 12	First Day of 2 <sup>nd</sup> Quarter	Apr. 1-26	MAP Testing Window (projected)
Nov. 22-23	Thanksgiving Break (school closed)	Apr. 11-12	3 <sup>rd</sup> Quarter Assessments (½ Days for Students)
Dec. 22-Jan. 6	Winter Break (school closed)	Apr. 15	Staff Professional Development Day
		Apr. 16-19	InterSession (Apr. 19 – ½ Day for Students)
		Apr. 22	First Day of 4 <sup>th</sup> Quarter
		May 10	Prof Development (No school for students)
		May 27	Memorial Day (school closed)
		<b>June 17, 18</b>	<b>2<sup>nd</sup> Semester Exams (½ Days of School)</b>
		Jun 19-21	Teachers' Summer Institute
		<b>June 18</b>	<b>Last day of school for students</b>
		June 21	Last day of school for teachers

The final board-approved calendar for the 2012-2013 school year will align with the Wayne County Common Calendar, which requires the following for the 2012-2013 school year:

- One Professional Development full day to be held the week immediately preceding Labor Day
- Professional Development full day – November 6, 2012
- Winter Break: December 22, 2012 – January 6, 2013, return January 7, 2013
- Midwinter Break: President's Day - February 18, 2013 (any additional midwinter break days must be taken during the week of February 18)
- Spring Break: March 29 – April 7, return Monday April 8, 2013

## Henry Ford Academy: School for Creative Studies

Elementary, Middle and High School:

1) **Number of instructional days** = 172 (does not include professional development days)

- 165 full-days (teachers directly engaged with students)
- 7 half-days (will meet the minimum number of minutes required to count as an instructional day) and
- 8 additional days for assessments (exams) at the middle/high school level

**Professional Development days** (not included as instructional days)

- Elementary teachers have 26 professional development days
- 6-12 teachers have 12 professional development days (team leaders, 16 professional development days)
- 5.5 work days

NOTE: School calendar will meet requirements for 1,098 Instructional Hours, and at the middle/high school level includes 9+ days that could be used as “emergency/snow days.”

2) **Number of daily instructional hours**

Elementary School = **7 hours (420 total minutes)**

Middle School High School = **6 hours, 45 minutes (405 total minutes)**  
((6 classes \* 60 min.) + 20 min. Forum + 35 min. Academic Coaching)

High School = **6 hours, 45 minutes (405 total minutes)**  
((4 classes \* 90 min.) + 20 min. Forum + 35 min. Academic Coaching)

3) **Number of summer school days** – Up to 4 hours a day for up to 15 days.

HFA: SCS has developed a summer school program that responds to the needs of middle and high school students who need additional time or attention to meet their course objectives. The design may fluctuate from year-to-year based on need and funding. In general:

Summer LEAP (Learning Enhancement Academic Program) provides middle school students with enrichment in English and math and runs 15 days, 3 hours per day; students must meet eligibility 31a requirements in order to participate in the program.

Summer credit recovery is offered to high school students who did not meet course objectives in core classes – such as Algebra, ELA, Civics/Economics, Biology, Geometry, US History, and Chemistry – during the school year. Credit recovery classes run 14 days, 4 hours per day; students who do not meet 31a requirements can take summer credit recovery courses for a fee.

## Henry Ford Academy: School for Creative Studies

A summer program will also be developed to support elementary school students who need additional time or attention in reading and math.

### 4) Number of extra hours before and after school

- After School Tutoring – up to 30 minutes/day for middle and high school students

### B. Daily Schedule

The following are sample student schedules for the elementary, middle and high school. Actual school start times and finish times may vary from these sample schedules.

Elementary School	
8:00-8:20 am	Forum
8:20-9:40 am	ELA (reading + writing)
9:40 – 10:40 am	Science
10:40 am -11:00 pm	Recess
11:00 am – 11:30 pm	Lunch
11:30-12:30 pm	APT - Art/Design, Phys. Ed., Technology
12:30-2:00 pm	Math
2:00-2:45 pm	ELA (reading + writing)
2:45 – 3:30pm	Social Studies + Close

Middle School	
8:00-9:00 am	1 <sup>st</sup> Hour
9:05-10:05 am	2 <sup>nd</sup> Hour
10:10 – 11:10 am	3 <sup>rd</sup> Hour
11:15 am -12:35 pm	Lunch/Forum/Academic Coaching
12:40-1:40 pm	4 <sup>th</sup> Hour
1:45-2:45 pm	5 <sup>th</sup> Hour
2:50-3:50 pm	6 <sup>th</sup> Hour
4:00-4:30 pm	Tutoring

High School	
A/B Schedule	
8:00-9:30 am	1 <sup>st</sup> /6 <sup>th</sup> Hour
9:35-11:05 am	2 <sup>nd</sup> /7 <sup>th</sup> Hour
11:10 am – 12:40 pm	3 <sup>rd</sup> /8 <sup>th</sup> Hour
12:45 – 2:15 pm	4 <sup>th</sup> /9 <sup>th</sup> Hour - Lunch/Forum/Academic Coaching
2:20-3:50 pm	5 <sup>th</sup> /10 <sup>th</sup> Hour
4:00 – 4:30	Tutoring

## Henry Ford Academy: School for Creative Studies

For elementary school, this daily schedule includes six classes daily, each of at least 45-minutes, with additional instructional time for Forum (circle time/morning meeting, 20 min.) and lunch supervised by teachers (30 min.) and recess (20 min.).

For middle school, this daily schedule includes six 60-minute classes daily, with additional instructional time for Forum (a structured advisory class, 20 min.) and Academic Coaching (a structured time for additional guided and independent practice with teachers, making up tests or other assessment tasks, and team project time, 35 min.).

For high school, this daily schedule includes four 90-minute block classes daily, with additional instructional time for Forum (a structured advisory class, 20 min.) and Academic Coaching (a structured time for additional guided and independent practice with teachers, making up tests or other assessment tasks, and team project time, 35 min.).

During middle school and the freshman year of high school, there is less room in individual schedules for electives; upper-classmen have a much greater set of choices from which to choose, provided they have met the promotion requirements and are on track to graduate on time.

## SCHEDULE 10-8

### AGE/GRADE RANGE OF PUPILS ENROLLED

<b>Proposed Enrollment Schedule*</b> <b>for Henry Ford Academy: School for Creative Studies</b>				
	<b>2011-12</b>	<b>2012-13</b>	<b>2013-2014</b>	<b>2014-2015</b>
<b>Grades ES</b>	n/a	K,1,2,3,4,5	K,1,2,3,4,5	K,1,2,3,4,5
<b>Grades MS</b>	6,7,8	6,7,8	6,7,8***	6,7,8
<b>Grades HS</b>	9,10,11	9,10,11,12**	9,10,11,12	9,10,11,12
<b>Age Range</b>	11-17 y.o.	5-18 y.o.	5-18 y.o.	5-18 y.o.
<b># of students ES</b>	0	360	360	360
<b># of students MS</b>	420	420	420	420
<b># of students HS</b>	350	460	460	460
<b>Total Estimated Enrollment at HFA: Detroit</b>	<b>770</b>	<b>1,240</b>	<b>1,240</b>	<b>1,240</b>

\* Note that the numbers of students shown are *approximate* targets and maximums.

\*\*First graduating class.

\*\*\*Arrival of the first group of students who completed the 5<sup>th</sup> grade at the elementary school.



## SCHEDULE 10-9

### **ADDRESS AND DESCRIPTION OF PROPOSED PHYSICAL PLANT; LEASE OR DEED FOR PROPOSED SITE; OCCUPANCY CERTIFICATE**

#### **A. Address and Description of the Central Administrative Office:**

The Central Administrative Office for the Henry Ford Academy: School for Creative Studies will be:

A. Alfred Taubman Center for Design Education  
435/485 W. Milwaukee  
Detroit, MI 48202-3222

#### **B. Address and Description of the Henry Ford Academy: School for Creative Studies Facilities:**

1 ) Address and Description of the Henry Ford Academy: Elementary School facility that will open with the beginning of the 2012-2013 Academic year:

Duane Doty Elementary  
10225 3rd Street  
Detroit, MI 48202

**Description:** Henry Ford Academy: Elementary School will be housed in the is housed in the former Duane Doty Elementary building at the address above in Detroit's Northend community.

**History of Doty Elementary:** The elementary school will operate in the Doty Elementary School building located on the corners of 3<sup>rd</sup> Street, Glynn and Calvert, on the edge of the historic Boston Edison neighborhood, just 12 blocks from the middle/high school campus. First opened in 1909, and named in honor of one of Detroit Public Schools' first superintendents, Doty Elementary stands as a prime example of the arts and crafts style of architecture prevalent in the early part of the last century and retains the grace and feel of that era.

**Future of Doty Elementary:** Once renovated, the facility and its 21st century school design will ensure HFA:SCS student safety and will support our educational program with: 26 grade specific learning studios, 2 art studios, 3 design/prototyping studios, 1 technology/media center, a dining hall, student support suite, administrative/reception area, large exhibition hall (entry/foyer), conference room, small formal exhibition space (former music room), and moderate-sized gym. The school also includes teacher collaboration spaces on each floor and outside physical education/recreation spaces.

**Safety and Security of HFA: SCS:** The safety and security of the students at the Duane Doty Elementary is of top concern to HFA: SCS. This priority is reflected in the state-of-the-art and high-tech security plan which will include machinery and highly trained staff, and for the

specifically designated elementary facility and all shared and common spaces utilized by the students.

The attached Exhibit A contains the site plan, section drawing, and relevant floor plans, and the Lease Agreement to be executed between the parties. Appropriate copies of executed lease documents and inspection documents and certificates will be provided as they are obtained and will be included in Exhibit A.

2 ) Address and Description of the Henry Ford Academy: School for Creative Studies middle and high school facility that opened with the beginning of the 2009-2010 Academic year:

A. Alfred Taubman Center for Design Education  
485 W. Milwaukee  
Detroit, MI 48202-3222

**Description:** Henry Ford Academy: School for Creative Studies is housed in the A. Alfred Taubman Center for Design Education (formerly known as the "Argonaut Building" and its transformation, the "Argonaut Project") at the address listed above in the New Center Area of Detroit. This location is the central administrative office for HFA: SCS. The property is bound on the north by Milwaukee, on the east by Cass Avenue, on the south by Baltimore Avenue, and on the west by Second Avenue. Woodward Avenue is one block east of Cass Avenue.

**History of the Argonaut Building:** The Argonaut Building has an interesting and relevant history in regards to the new HFA: SCS. Built in 1927 for General Motors by architect Albert Kahn, the premier designer of reinforced concrete manufacturing facilities, especially Detroit's many automobile factories, the 700,000 square foot, 11-story Argonaut building was GM's first research center. Directly behind GM's sprawling headquarters on West Grand Boulevard, the General Motors Research Laboratory was home to hundreds of patents on automotive innovations, including the first fully automatic transmission. A hub of innovation and design for 30 years, the Argonaut Building's illustrious history provides a most symbolic and fitting platform upon which to establish a new generation of art and design education and leadership with Henry Ford Academy: School for Creative Studies and the College for Creative Studies.

**Future of the Argonaut Building:** The Argonaut Project is the creation of an art and design-focused Integrated Learning Community, extending from middle school through graduate school and beyond into the commercial design and creative economy arena. The A. Alfred Taubman Center for Design Education houses a second and new campus for many studio-based college design programs for College for Creative Studies, the new CCS graduate program, a significant expansion of college student housing, the art and design-focused Henry Ford Academy: School for Creative Studies and leased space. General Motor donated the building to CCS and providing assistance to create the financing and construction management packages. Other tenants will likely include at least one office for a compatible non-profit organization. In conjunction with Detroit Renaissance's new Road to Renaissance economic development plan for the region, CCS seeks to develop and host a design accelerator space for start-up commercial creative-based

businesses. This economic development concept will provide low-cost or subsidized space with shared back-office services for multiple, small start-up creative economy businesses. A new gymnasium, including gender-separate locker rooms and secure equipment storage space, has been built for the facility.

HFA: SCS will be an integral part of this Integrated Learning Community in the Taubman Center. Students at all levels have proprietary instruction space, but also have the opportunity to share many of the resources, from a cafeteria and gym to a conference center, design studios and sophisticated design equipment. This concentrated learning model promotes an extremely rich and diverse educational environment for all sorts of creative and talented students of design.

This project not only provides an innovative Integrated Learning Community unlike any other in the country right in the heart of Detroit spanning sixth grade through graduate school; with attention and participation from other Detroit institutions it also has the potential to serve as an engine for community and economic development for our city at a time when it is most needed.

***Specific HFA: SCS Facilities:*** The Academy-designated facilities will occupy portions of the first through fourth floors of the Taubman Center. The first floor will hold the school's administration office and 6<sup>th</sup> grade space, including learning studios, design alcoves and storage, technology project studios, a college center, administrative spaces, teacher collaborative and individual spaces and dedicated spaces for HFA: SCS families to interact with the learning community. In addition to these Academy spaces, the 1<sup>st</sup> floor includes art gallery space, a bookstore and coffee shop, and the building's main entrances.

The second floor holds grades 7 and 8 of the Academy with student and teacher learning spaces similar to those described above. The Academy shares this floor with the café and food preparation and serving areas (all tenants in the Taubman Center have access to the café, with designated areas for Academy students to eat breakfast/lunch). Grades 9 and 10 are on the third floor, again with significant and relevant learning spaces. Grades 11 and 12 will occupy the fourth floor of the Argonaut, which they will share with another organization appropriate to the Integrated Learning Community.

***Safety and Security of HFA: SCS:*** While the opportunity for the 880 students and staff of HFA: SCS to learn in public spaces and among and with compatible community and educational organizations is an exciting one, being in this shared and public building produces the need to ensure that all residents of the Taubman Center are safe. Clearly the safety and security of the Academy is of top concern to HFA: SCS and the two organizations involved with it. This priority is reflected in the state-of-the-art and high-tech security plan which will include machinery and highly trained staff, for the Taubman Center overall, for all shared and common spaces and for the specifically designated middle and high school facilities. The security plan for the Taubman Center is constantly being updated based on the new and advanced technology available.

The Middle School and High School of the Academy will be located in a renovated building facility, commonly known as the Taubman Center, pursuant to a Lease and Joint Use Agreement between TEF-SIX, LLC and the CCS Master Tenant located at 435- 485 West Milwaukee,

Detroit Michigan 48202. TEF-SIX, LLC is a single member limited liability company whose single member is the Thompson Educational Foundation. It is anticipated that the Thompson Educational Foundation will provide the funding for renovations to portions of the Taubman Center, totaling approximately 120,000 square feet, dedicated solely to the Academy's Middle School and High School. TEF-SIX, LLC will sublease the building facility to Creative Urban Education (CUE) for a nominal amount, and CUE is obligated to provide the building facility at no additional expense to PSAD for the operation of the Academy's Middle School and High School, pursuant to the management agreement between CUE and PSAD.

The documents attached hereto contain the site plan, section drawing, and relevant floor plans, the Lease and Joint Use Agreement and related lease documents for the middle and high school and copies of inspection documents and certificates

HF Elem

EXECUTION COPY

**LEASE**

**Between**

**LANDLORD: TEF-THREE, LLC**  
**a Michigan limited liability company,**

**And**

**TENANT: PUBLIC SCHOOL ACADEMIES OF DETROIT,**  
**a Michigan non-profit corporation**

**Dated: December 28, 2011**

**LEASE**

**SECTION 1**  
**SCHEDULE**

**LANDLORD:** NAME: TEF-THREE, LLC  
ADDRESS: P.O. Box 6349  
Plymouth, MI 48170

**TENANT:** NAME: PUBLIC SCHOOL ACADEMIES OF  
DETROIT  
ADDRESS: 600 Antoinette, Detroit, MI 48202

**DEMISED PREMISES:** Land located in the City of Detroit, Wayne County, Michigan at 10225 Third, Detroit, Michigan as described in legal description attached as Exhibit A (the "Site"), together with all improvements located thereon, including without limitation the existing building, and the Landlord Improvements (defined herein)(collectively, the "Demised Premises")

**LEASE TERM:** July 15, 2012 until June 30, 2022 unless terminated sooner pursuant to Paragraph 2.2.

**EFFECTIVE DATE** The date this Lease has been executed by Landlord and Tenant below.

**COMMENCEMENT DATE:** The term of this Lease shall commence on July 15, 2012.

**TERMINATION DATE:** June 30, 2022.

**BASE RENT:** Base Rent for each Lease Year shall be as set forth in Exhibit B attached hereto.

**EXHIBITS ATTACHED:** "A" - Legal Description of Site  
"B" - Base Rent Schedule

## **SECTION 2**

### **GRANT AND TERM**

#### **2.1 Demised Premises**

Landlord, in consideration of the rents to be paid and the covenants, promises and agreements to be performed by Tenant, does hereby lease to Tenant and Tenant hereby rents from Landlord, the Demised Premises described in Section 1.

#### **2.2 Term**

The term of this Lease shall be for the Lease Term, unless the Lease Term is extended or sooner terminated in accordance with the provisions of this Lease. Also, the Lease Term shall immediately terminate if Tenant's authorization to operate the Henry Ford Academy Elementary School is terminated in accordance with Article X of a certain Contract to Charter One or More Urban High School Academies and Related Documents dated December 14, 2007, as amended, by and between GVSU Board of Trustees ("Authorizer") and the Public School Academies of Detroit (the "Charter School Contract").

## **SECTION 3**

### **CONSTRUCTION OF DEMISED PREMISES**

#### **3.1 Construction**

Landlord agrees to cause Substantial Completion (defined below) of the Landlord Improvements, at Landlord's sole cost and expense, prior to the Commencement Date.

#### **3.2 Delays**

In the event Landlord's contractors shall be delayed or hindered in the construction of the Landlord Improvements or prevented from completing such construction or prevented from delivering possession of the Demised Premises on or prior to the Commencement Date because of any strike, lockout, labor dispute; fire, damage or destruction or casualty; unavailability of material; weather; power failures; unavailability of utilities; restrictive governmental laws or regulations; riots; insurrection; war; or any other reason, beyond the reasonable control of the Landlord or its contractors ("Force Majeure Event"), then Landlord shall be excused for the period of delay caused by the Force Majeure Event and the Commencement Date shall be extended for such period of delay, and the Termination Date shall be extended for the same number of days as the Commencement Date has been postponed.

#### **3.3 Substantial Completion**

"Substantial Completion" shall mean the completion of the Landlord Improvements so that the Demised Premises is available and all required governmental permits and approvals have been obtained (including a certificate of occupancy) for occupancy and use by Tenant as a public school academy for use as a high school.

**SECTION 4**  
**POSSESSION AND COMMENCEMENT OF TERM**

**4.1 Possession and Commencement of Lease Term**

Landlord shall deliver actual possession of the Demised Premises to Tenant on or before the Commencement Date, but if delivery is delayed by reason of a Force Majeure Event, the date upon which such possession is delivered shall constitute the "Commencement Date" in lieu of the date provided in Section 1 and the Termination Date provided in Section 1 shall be extended for the same number of days. In the event that Tenant occupies the Demised Premises prior to the Commencement Date, the Commencement Date shall be the date that Tenant occupies the Demised Premises, but the Termination Date shall not be changed from the date provided in Section 1. Landlord shall, when construction progress so permits, notify Tenant of the date that Substantial Completion of the Landlord Improvements is anticipated. By occupying the Demised Premises, Tenant will be deemed to have accepted the Landlord Improvements and the Demised Premises. The Rent, as defined herein, due under this Lease and the term of this Lease shall commence on the Commencement Date.

**4.2 Landlord Not Liable For Delays**

Under no circumstances shall Landlord be liable for any delays in the delivery of possession to Tenant on the Commencement Date. Tenant's sole and exclusive remedy shall be the abatement of Rent until the Demised Premises are ready for occupancy and possession is delivered to Tenant.

**4.3 Memorandum**

Within 30 days after the delivery of possession to Tenant, Tenant shall join with Landlord in the execution of a written memorandum confirming the Commencement Date and Termination Date of the Lease Term. Tenant's failure to execute the Memorandum (if requested by Landlord) shall be a default by Tenant under this Lease.

**SECTION 5**  
**BASE RENT**

**5.1 Base Rent**

Tenant shall pay to Landlord Base Rent during the Lease Term. Base Rent shall be payable in quarterly installments in arrears with the first such payment due on October 1, 2012 and then on the first day of each calendar quarter of each Lease Year thereafter at the office of Landlord stated in Section 1 or such other place designated by Landlord.

**5.2 Rent Net of Expenses**

Landlord and Tenant intend that Base Rent due hereunder, together with any adjustments during the Lease Term shall be absolutely net of all costs, expenses, taxes (real and personal) and charges of every kind and nature whatsoever relating to the ownership, occupancy or use of the Demised Premises. To the extent permitted by law and without



waiving any privilege or immunity, Tenant shall indemnify and hold Landlord harmless from and against any such costs, expenses, taxes (real or personal) and charges for which Tenant is responsible under this Lease.

### **5.3 Additional Rent**

All amounts due from Tenant and payable to Landlord or the provider of any service (such as utilities, maintenance, etc.), if provided direct to Tenant, excluding Base Rent, including, without limitation, utilities, taxes, maintenance and insurance costs shall be deemed to be additional rent ("Additional Rent"). Upon Tenant's failure to pay any such amount, Landlord, in addition to any other remedies, shall have the same remedies provided for Tenant's failure to pay Base Rent (Base Rent, together with the Additional Rent, shall be collectively referred to as "Rent"). Tenant shall pay any and all sums of money or charges required to be paid by Tenant under this Lease, including, but not limited to, Additional Rent, promptly when the same are due, without any deductions or setoff whatsoever except as otherwise specifically set forth herein. Landlord will forward to Tenant any bills Landlord receives that Tenant is obligated to pay, including but not limited to tax, utility and other service bills, within five (5) days of Landlord's receipt thereof.

### **5.4 Lease Year**

"Lease Year" shall mean a period of twelve (12) consecutive calendar months, except (a) the last year of the Lease Term, which shall expire on the Termination Date and (b) the first Lease Year, shall begin on the Commencement Date and expire on December 31, 2012.

## **SECTION 6** **UTILITIES**

Tenant agrees to pay all charges made against the Demised Premises for gas, heat, water, air conditioning, electricity, sanitary and storm sewage disposition, telephone and all other utilities ("Utilities") during the Lease Term (but specifically excluding the expenses of bringing Utilities to the Site and to the improvements constituting the Landlord Improvements and separately metering the Utilities, which costs are included as part of the Landlord Improvements) as the same shall become due all of which shall be separately metered and billed directly to Tenant. Landlord shall not be liable to Tenant for the quality or quantity of any such utilities, or for any interruption in the supply of any such utilities.

## **SECTION 7** **TAXES AND ASSESSMENTS**

### **7.1 Obligation**

Tenant agrees to pay to Landlord as Additional Rent any and all Taxes (as defined in Section 7.2) assessed against the Demised Premises for each Lease Year or partial Lease Years during the Lease Term.

## **7.2 Definition**

"Taxes" shall be defined as: (a) all taxes (either real or personal), assessments (general or specific), all water and sewer charges, and all other governmental impositions, which may be levied during the Lease Term upon the land, buildings or improvements comprising the Demised Premises or any part thereof; (b) all other taxes and other charges imposed by the State of Michigan or any subdivision thereof which: (1) are in replacement of or in lieu of increases in all or any part of ad valorem taxes as sources of revenue and (2) are based in whole or in part upon Demised Premises or any interest therein or the ownership thereof, or the rents, profits or other income therefrom, including, without limitation, income, single business, franchise, excise, license, privilege, sales, use, and occupancy taxes; (c) a tax or surcharge of any kind or nature upon, against or with respect to the parking areas or the number of parking spaces on the Demised Premises; and (d) all costs and expenses incurred by Landlord during the lease term for negotiations for or contests of the amount of such taxes and assessments, without regard to the result, including, without limitation, actual attorneys' fees; provided, that Tenant pre-approves such contests for taxes or assessments. Taxes shall not include any tax on the net income of Landlord, except to the extent included in subparagraph (b) above.

## **7.3 Payments**

Taxes on the Demised Premises levied or assessed for or during the Lease Term shall be paid to Landlord within ten (10) days after Landlord delivers to Tenant a statement for such Taxes. The Taxes for the years in which this Lease commences and terminates shall be prorated on a due date basis.

## **7.4 Tenant's Taxes**

Tenant shall pay all real and personal property taxes levied or assessed against Tenant's property and improvements upon or affixed to the Demised Premises, including taxes attributable to all alterations, additions, or improvements made by Tenant.

# **SECTION 8**

## **USE OF DEMISED PREMISES**

### **8.1 Use of Demised Premises**

Tenant shall use and occupy the Demised Premises during the Lease Term only for (a) the purpose of establishing, managing, and operating a public school academy for use as a elementary school known as the Henry Ford Academy Elementary School and attendant office use, and for no other purpose without the prior written consent of Landlord, which may be granted or withheld in its sole and absolute discretion, provided that such use does not include (A) the rental to others of residential rental property, which is defined in Section 168(e)(2)(A) of the Internal Revenue Code of 1986 (the "Code") as property where eighty percent (80%) or more of the gross rental income from such property is derived from the rental of dwelling units, or (B) the operation of any: (1) private or commercial golf course, (2) country club, (3) massage parlor, hot tub facility, or suntan facility, (4) race track or other facility used for gambling, or (5) store the principal

business of which is the sale of alcoholic beverages for consumption off premises. Tenant shall not use or permit any person to use the Demised Premises or any part thereof for any use or purpose other than the use stated in this Lease or in violation of any law, statute, order, ordinance, code, rule or regulation of any federal, state or municipal body or other governmental agency or authority having jurisdiction thereof, including, without limitation, zoning, land use and building ordinances, uses and requirements; occupational safety and health requirements; community right-to-know requirements; the Americans With Disabilities Act of 1990; and state and federal environmental laws (collectively "Laws"), affecting the Demised Premises, if any; provided, however, that Tenant shall not be responsible for any violation of Laws or any condition at the Demised Premises existing on or before the Commencement Date. Tenant shall comply strictly with each and every term, condition and requirement of the Charter School Contract.

## **8.2 Care of Demised Premises**

Tenant shall keep the Demised Premises orderly, neat, safe and clean and free from rubbish and dirt at all times and shall store all inventory, supplies, trash and garbage within the buildings on the Demised Premises. Tenant shall keep the driveways and walkways within the Demised Premises free from snow and ice, and shall arrange for the regular removal of snow during the winter months and the pick up of trash and garbage at Tenant's expense. At the expiration of the Lease Term, or the sooner termination thereof, Tenant shall surrender the Demised Premises in as good condition and repair as existed at the time Tenant took possession, reasonable wear and tear excepted.

## **8.3 Hazardous Substances**

Tenant shall not use, cause or permit the Demised Premises to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process hazardous substances.

# **SECTION 9** **INDEMNITY**

## **9.1 Indemnity**

To the extent permitted by applicable law and without waiving any privilege or immunity, Tenant shall defend, indemnify and hold harmless Landlord and Landlord's officers, directors, employees and agents (regardless of any negligence imputed to Landlord by law due to its ownership of the real property involved), from and against any and all claims, suits, personal injuries, death, property damage, liabilities, damages, losses, costs or expenses, including, without limitation, reasonable legal, accounting, consulting, engineering and other expenses (collectively "Damages") which may be imposed upon, incurred by, or asserted against Landlord or Landlord's officers, directors, employees or agents (collectively "Indemnified Parties"), arising directly or indirectly from any (a) occurrence on or about the Demised Premises from any cause whatsoever from and after the Commencement Date and during the Lease Term, (b) failure of Tenant to comply with

any provision of this Lease, (c) failure of any subtenant to comply with any provision of any sublease, (d) occupancy or use by Tenant and/or subtenant of the Demised Premises or any act or omission of Tenant, its employees, agents, representatives, invitees, licensees and contracting parties or any subtenant, or (e) failure of Tenant to strictly comply with the terms and conditions of the Charter School Contract. The indemnities provided herein shall include attorneys' fees incurred by the Indemnified Parties in connection with such Damages or to enforce the indemnity given hereunder. Tenant shall not be required, however, to indemnify Landlord against Damages arising from Landlord's gross negligence or willful misconduct. Any liability or loss as to which the Indemnified Parties are entitled under this Section 9.1 and all expenses incurred in connection therewith including, but not limited to, attorneys fees, shall constitute Additional Rent payable upon demand.

## **9.2 Liability Insurance**

Tenant shall procure and keep in effect during the Lease Term commercial, general liability insurance on an occurrence basis, including operations and insured contract coverage, for personal injury or death or property damage occurring in, upon or about the Demised Premises or any street, drive, sidewalk, curb or passageway adjacent thereto in the amount reasonably required by Landlord (but in no event less than Ten Million (\$10,000,000 ) Dollars combined single limit per occurrence, which may be based on a combination of primary coverage plus excess insurance or "umbrella" coverage. Any contractual liability coverage for indemnifications given by Tenant under this Lease shall not in any way limit such indemnifications.

## **9.3 Delivery of Policy.**

Tenant shall provide Landlord with evidence of the above-referenced insurance on or before the Commencement Date. Evidence of such insurance shall be in the form of an insurance policy or binder. Landlord shall be named as an additional insured on all such policies. Such insurance policies shall prohibit cancellation, alterations, changes, amendments, modifications, deletions or reductions in coverage either at the insistence of Tenant or the insurance company issuing the policy, without at least thirty (30) days prior written notice having been given to Landlord. If Tenant fails to maintain such insurance coverage, Landlord may, at its option, procure such insurance for the account of Tenant and the cost thereof shall be paid by Tenant to Landlord upon delivery to Tenant of bills therefore. The insurer or insurers shall be such as may from time to time be approved by Landlord and shall be issued by insurance companies authorized to do business in the State of Michigan.

# **SECTION 10 MAINTENANCE AND REPAIRS**

## **10.1 Maintenance And Repairs**

Tenant shall, at its sole cost and expense, during the Lease Term, maintain, repair and replace and keep neat and in good appearance and condition the Demised Premises, including, but not limited to, the roof, exterior, interior, ceiling, electrical system,

plumbing system, HVAC system, storm sewers, sanitary sewers, water main, the driveways, walkways, parking area, lighting facilities, landscaping and land, which are part of the Demised Premises; provided, however, that Tenant shall not be responsible for (a) latent defects at the Demised Premises, or (b) any work covered by warranties Landlord receives from any construction contractor, subcontractor or materialman providing services and/or material in connection with the Landlord Improvements, all of which maintenance Landlord shall be responsible to cause to be performed at its cost. The plumbing system, including the sewage facility, serving the Demised Premises shall not be used for any purpose other than for which it was constructed and Tenant shall not introduce any matter therein which results in blocking such system. Tenant shall, at its sole cost and expense, also repair or replace the driveways, walkways, parking areas, and landscaping on the Demised Premises. Tenant shall, at its sole cost and expense, contract with contractors acceptable to Landlord (except in the case of emergency) for the performance of all maintenance, repairs and replacement required of Tenant under this Lease. Tenant shall perform such maintenance, repairs and replacement so as to maintain the Demised Premises in the same condition in which it was delivered to Tenant, reasonable wear and tear excepted. Such maintenance, repair and replacement obligations of Tenant shall include items deemed to be capital improvements for tax purposes. The maintenance, repair and replacement obligations of Tenant hereunder, shall survive termination of this Lease to the extent such obligations accrued prior to the termination of this Lease.

Tenant agrees to establish an capital reserve fund for major capital repairs or replacements of the Demised Premises (the "Capital Reserve") that shall contain at least \$40,000 at the start of the fourth Lease Year. At the start of each successive Lease Year, the Capital Reserve shall increase by \$40,000. If none of the Capital Reserve is spent during the initial five (5)-year Lease Term, the balance would contain an amount of \$80,000 at the end of the Lease Term. The Capital Reserve shall be available for major capital repairs or replacement of the Demised Premises, such as major repair or replacement of a building roof, an HVAC unit, the plumbing system, the water main, the electrical system, or other major facility elements. Withdrawal of funds from the Capital Reserve account shall require the signatures of both Landlord and Tenant. Withdrawal of funds from the Capital Reserve for furniture, fixtures, equipment or technology related items, such as computers and software, is prohibited. If Tenant exercises its option to extend the Lease Term, Tenant shall place \$40,000 a Lease Year into the Capital Reserve until a total of \$200,000 has been placed into the Capital Reserve.

## **10.2 Compliance With Laws**

During the term of this Lease, Tenant shall comply with all Laws (as defined in Section 8.1) and make any repairs, additions, modifications or alterations to the Demised Premises, regardless of the nature thereof, which are required by any Laws or required by the insurance carrier to maintain the insurance required under this Lease; provided, however, that Tenant shall not be responsible for any conditions existing at the Demised Premises prior to the Lease Commencement Date, or to perform any obligation that was to be performed by Landlord as part of the Landlord Improvements.

**SECTION 11**  
**TENANT'S ALTERATIONS**

Tenant shall not make any structural alterations, additions, modifications or improvements to the Demised Premises without the prior written consent of Landlord, which consent may be granted or withheld in the sole and absolute discretion of Landlord. Tenant shall not make any non-structural alterations, additions, modifications or improvements having a cost in excess of \$10,000 to the Demised Premises without the prior written consent of Landlord, which consent shall not be unreasonably withheld.

**SECTION 12**  
**PROPERTY INSURANCE, REBUILDING AND WAIVER OF SUBROGATION**

**12.1 Property Insurance**

Tenant shall, during the Lease Term, at its sole cost and expense keep the Demised Premises insured for the benefit of Landlord:

(i) by an "All Risk of Physical Loss" policy with the broadest form of extended coverage endorsement in an amount sufficient to prevent Landlord from becoming a co-insurer under the policies or Laws, including special extended coverage endorsements reasonably required by Landlord in an amount equal to the full replacement and reconstruction cost and valued on a replacement cost basis of the building and improvements which are a part of the Demised Premises (including any alterations made by Tenant and incorporated into the Demised Premise) as determined solely by Landlord, without allowance for depreciation and exclusive of the cost of excavations, foundations and footings;

(ii) against damage by flood if the Site is located in an area identified by the Secretary of Housing and Urban Development, or any successor, as an area having special flood hazard and in which flood insurance has been made available under the Flood Acts, in an amount determined solely by Landlord;

(iii) against damage or loss from (1) sprinkler system leakage, and (2) boilers, if any, boiler tanks, if any, heating and air-conditioning equipment, pressure vessels, auxiliary piping and similar apparatus, in an amount determined solely by Landlord; and

(iv) during the period of any construction, repair, restoration, or replacement of the Demised Premises, performed after the construction of the Landlord Improvements, by a standard builder's risk policy with extended coverage in an amount at least equal to the full replacement and reconstruction cost and valued on a replacement cost basis, workers compensation in statutory amounts, and such endorsements as required by Landlord.

Tenant shall provide Landlord with evidence of the above-referenced insurance on or before the Commencement Date. Evidence of such insurance shall be in the form of an insurance policy or binder. Landlord shall be named as an additional insured and loss payee on all such policies. Such insurance policies shall prohibit cancellation, alterations,

changes, amendments, modifications, deletions or reductions in coverage either at the insistence of Tenant or the insurance company issuing the policy, without at least thirty (30) days prior written notice having been given to Landlord. If Tenant fails to maintain such insurance coverage, Landlord may, at its option, procure such insurance for the account of Tenant and the cost thereof shall be paid by Tenant to Landlord upon delivery to Tenant of bills therefore. The insurer or insurers shall be such as may from time to time be approved by Landlord and shall be issued by insurance companies authorized to do business in the State of Michigan.

## **12.2 Rebuilding**

If the Demised Premises shall become damaged by fire or other casualty, Landlord may either restore the Demised Premises or make it tenable (to the extent of available insurance proceeds) or terminate this Lease by notifying the Tenant of such termination within thirty (30) days after the date of such damage, at its sole option. Tenant shall immediately notify Landlord of the occurrence of a fire or other casualty at the Demised Premises.

## **12.3 Waiver of Subrogation**

Any property insurance policy carried by Landlord or Tenant or any policy covering both the interest of Landlord or Tenant under this Section 12 shall include a provision under which the insurance company waives all right of recovery by way of subrogation against Landlord or Tenant in connection with any loss or damage covered by any such policy. Landlord or Tenant hereby release and discharge each other from any liability whatsoever arising from any loss, damage or injury caused by fire or other casualty to the extent of the insurance covering such loss, damage or injury.

# **SECTION 13 EMINENT DOMAIN**

## **13.1 Condemnation**

If all or any material part of the Demised Premises shall be taken or condemned by any competent authority for any public use or purpose, the Lease Term shall, at the option of Landlord, end as of the date of a stipulation, agreement, or order of possession. If the Demised Premises may not be reasonably used for the purpose contemplated by this Lease following any taking, Tenant, at its sole and absolute discretion, may terminate this Lease by written notice to Landlord. In the event of a termination pursuant to this Section, Rent shall be pro rated to the date of such taking. In the event of a condemnation, Landlord shall be entitled to the entire condemnation award, except that Tenant shall be entitled to receive any portion of the condemnation proceeds awarded for Tenant moving costs and related expenses, diminution in value of the leasehold interest only, and other just compensation and reimbursement to which Tenant is entitled from the condemning authority.

**SECTION 14**  
**ACCESS TO PREMISES**

Landlord or Landlord's agent shall have the right to enter the Demised Premises at all reasonable times to inspect or examine the same, and to make such tests, repairs, alterations, improvements or additions as Landlord may deem necessary or desirable. Landlord shall conduct all inspections and examinations and all repairs, alterations, improvements and/or additions in such a manner so as to not unreasonably disrupt the operations of Tenant at the Demised Premises. Landlord and Landlord's agent shall comply with all Laws when accessing the Demised Premises.

**SECTION 15**  
**FIXTURES AND EQUIPMENT**

All furnishings, fixtures and equipment installed by Landlord shall remain the property of Landlord at the termination of this Lease. Unless otherwise agreed to in a prior writing signed by Landlord and Tenant, if Tenant installs any furnishings, fixtures or equipment during the Term of this Lease that are incorporated into and/or affixed to the buildings or improvements located on the Demised Premises and cannot be removed without substantial damage or injury to the buildings or improvements, then they shall become the property of Landlord at the termination of the Lease Term and shall not be removed without Landlord's prior written consent, which may be granted or withheld in its sole and absolute discretion. All fixtures and equipment installed by Tenant and not removed at the termination of the Lease Term shall remain the property of Landlord. In the event Landlord consents to such removal, Tenant shall remove such fixtures in accordance with all applicable Laws and shall repair any such damage or injury in a good and workmanlike manner.

**SECTION 16**  
**ASSIGNMENT, SUBLETTING AND TRANSFERS BY TENANT**

Tenant shall not sell, assign, sublet, hypothecate, encumber, mortgage or in any manner transfer this Lease or any estate or interest therein (including any transfer by operation of law or otherwise), the Demised Premises or any part thereof or permit the use of the Demised Premises by any person or entity other than Tenant without the prior written consent of the Landlord, which may be granted or withheld in its sole and absolute discretion.

**SECTION 17**  
**SALE OR TRANSFER**

Landlord shall have the right to sell, transfer or assign the Demised Premise ("Conveyance"). In the event of Conveyance, Tenant shall attorn to the purchaser, transferee or assignee ("Transferee") and recognize such Transferee as Landlord under this Lease and Landlord shall be relieved from all subsequent obligations and liabilities under this Lease, provided such obligations are assumed in writing by such Transferee and a copy thereof is provided to Tenant.



**SECTION 18**  
**DEFAULT, RE-ENTRY AND DAMAGES**

**18.1 Default**

The following non-exhaustive list of events shall constitute a default ("Default") under this Lease:

- (a) Tenant fails to pay within seven (7) days of the due date any Base Rent or Additional Rent due hereunder on the day the same shall be due;
- (b) Tenant fails to perform any of the terms and conditions under this Lease, other than the payment of Base Rent or Additional Rent, and such failure remains uncured for thirty (30) days following written notice;
- (c) Tenant not operating the Henry Ford Academy Elementary School ("Elementary School") at the location in accordance with the Charter School Contract.
- (d) Tenant has abandoned or vacated the Demised Premises;
- (e) Tenant fails to meet any one or more of the following performance standards relating to its operation of a public school academy as an Elementary School on the Demised:
  - 1. At least 90% of the graduating 5th graders enter a Tenant middle school the following fall every year beginning in September 2013;
  - 2. An average daily attendance rate of 92.5%; and
  - 3. Meet the Adequate Yearly Progress (AYP) requirements of *No Child Left Behind*;
- (f) The failure of Tenant to establish policies required by the Charter School Contract when and as required by the Charter School Contract.
- (g) The termination or expiration of the Charter School Contract or any failure to renew or extend the Charter School Contract for any reason or no reason; unless Tenant enters into a replacement charter contract which authorizes Tenant to operate a public school academy at the Demised Premises for the same grade range as the Charter School Contract.
- (h) The failure of Tenant to comply with any Reporting Requirement set forth in Section 19 of this Agreement.
- (i) Tenant fails to maintain a minimum Lease Payment Coverage Ratio of not less than 1.10 to 1.00, measured as of the end of each of Tenant's fiscal years, commencing with Tenant's fiscal year beginning on July 1, 2012. For the purposes hereof, the "Lease Payment Coverage Ratio" shall be determined by dividing, with respect to Tenant's operation of the School, (A) Tenant's Earnings

Before Interest, Taxes, Depreciation, Amortization and Tenant's Rent obligations under this Lease by (B) the sum of Tenant's interest expense, Tenant's rent obligations under this Lease, and Tenant's Current Portion of Long-Term Debt for the prior period.

## **18.2 Landlord's Remedies Upon Default**

(a) In the event of the occurrence of a Default, in addition to all of its other remedies under this Lease and available at law or in equity, Landlord shall have the right to re-enter the Demised Premises, in accordance with applicable law, to remove all persons and property therefrom. Upon the occurrence of a Default, Landlord, at its option, may either terminate this Lease, or without terminating this Lease, relet the Demised Premises or any part thereof on such terms and conditions, as Landlord deems advisable in its sole and absolute discretion. No such eviction, entry or taking of possession of the Demised Premises, whether through summary eviction proceedings or by self-help, shall be construed as an election on its part to terminate this Lease unless Landlord provides written notice of such intention to Tenant or unless termination is declared by a court of competent jurisdiction.

(b) In addition to any other remedy provided for herein, if Landlord brings suit to recover possession of the Demised Premises or money due under this Lease or a suit for the breach of an obligation Tenant should have performed under the Lease and if the Landlord prevails, the Tenant shall pay the Landlord for expenses incurred in the action, including reasonable attorneys fees. Such expenses shall be deemed to have an incurred when the action commences and shall be enforced whether or not the action is prosecuted to judgment. In the event Tenant prevails in any lawsuit in connection with the Demised Premises, Tenant shall have its expenses, including reasonable attorney fees, paid by Landlord.

## **18.3 Waiver of Jury Trial and Counterclaim**

In the event Landlord commences any proceedings for non-payment of Rent, Additional Rent, or any other amount payable to Landlord by Tenant, Tenant shall not interpose any counterclaim of whatsoever nature or description in any such proceeding unless same is a compulsory or mandatory counterclaim. This shall not, however, be construed as a waiver of Tenant's right to assert such a claim in any separate action brought by Tenant. Landlord and Tenant waive trial by jury in any action or proceeding brought by either party on any matter whatsoever arising out of or in any way connected with this Lease, the relationship of lessor and lessee, Tenant's use or occupancy of the Demised Premises, or any claim of injury or damage.

## **SECTION 19** **REPORTING**

### **19.1 School Reports**

During the Lease Term, as soon as available, but in no event after the period set forth herein, Tenant shall furnish, upon written request and to the extent not otherwise

prohibited by law, or, where information is maintained on government online databases or formats, make available to Landlord the following documents with respect to the School:

- a) within sixty (60) calendar days after the beginning of each fiscal year of Tenant, annual enrollment for the School, including, without limitation, federal free and reduced-price lunch eligibility and special education and ethnicity enrollment;
- b) within thirty (30) calendar days of Tenant's receipt as to the School and to the extent not otherwise prohibited by applicable law: (A) "Annual School Report Card" required by the No Child Left Behind Act, and the following additional information if not included in the Annual School Report Card: performance on mandated state educational tests and internally-administered tests; (B) all programmatic quality reporting, including reports to the charter authorizer; and (C) all material correspondence from the charter authorizer; and
- c) Promptly after request, Tenant shall furnish to Landlord such additional information, reports, statements, and certificates with respect to the School as Landlord may from time to time reasonably request, in form and content reasonably satisfactory to the Landlord. Tenant and Landlord acknowledge and agree that certain student-identifying information (including, without limitation, names and social security numbers) may be redacted from documents provided to Landlord pursuant to this 19.1 to protect the privacy of students of the School prior to such documents being delivered to Landlord.

## **19.2 Financial Reports**

Tenant shall deliver to Landlord (i) within one hundred twenty (120) days of the end of Tenant's fiscal year, financial statements for Tenant (including, at a minimum, a balance sheet, an income statement showing breakeven or better financial performance, and a statement of cash flow), which financial statements include specific details for Tenant Business and are certified as true and correct by an authorized officer of Tenant, in a form reasonably satisfactory to Landlord in all respects and audited by an independent certified public accountant reasonably approved by Landlord. All financial statements shall be prepared in accordance with generally accepted accounting practices for public school accounting in the State of Michigan. Tenant shall deliver to Landlord such other financial information with respect to Tenant and the Demised Premises as Landlord may reasonably request from time to time.

## **SECTION 20 QUIET ENJOYMENT**

Landlord covenants that so long as no Tenant Default has occurred and is continuing, Tenant may peacefully and quietly hold and enjoy the Demised Premises for the Lease Term without interference by Landlord or any person claiming by, through or under Landlord.

**SECTION 21**  
**SUBORDINATION**

This Lease is and shall be subject and subordinate to all mortgages and ground or underlying leases which may now or hereafter affect the Demised Premises, and to all renewals, modifications, consolidations, replacements and extensions thereof. In confirmation of such subordination, Tenant shall execute and deliver upon demand such further instrument or instruments subordinating this Lease to the lien of any such mortgage or mortgages as shall be desired by Landlord, as well as any mortgages or proposed mortgagees. Any mortgagee of the Landlord shall be entitled to rely upon and enforce the terms of this Section 21 as a third party beneficiary.

**SECTION 22**  
**SIGNS**

Tenant will not place or cause to be placed or maintained any sign or advertising matter of any kind anywhere on the Demised Premises, except in the interior thereof, without Landlord's prior written approval.

**SECTION 23**  
**OPTION TO EXTEND**

**23.1 Option to Extend Lease Term**

So long as no Tenant Default has occurred and is continuing, Tenant shall have three options to extend the Lease Term for three additional ten (10) year terms on the same terms and conditions set forth herein (each an "Option to Extend"). The Base Rent for each Lease Year of such extended term(s) shall be as set forth in Exhibit B. Each Option to Extend the Lease Term is personal to the Tenant and is not transferable or exercisable by any transferee.

**23.2 Exercise of Option**

Tenant may exercise an Option to Extend by providing Landlord with written notice of exercise not more than fifteen (15) months or less than twelve (12) months prior to the expiration of the then current ten (10) year Lease Term.

**SECTION 24**  
**MISCELLANEOUS**

**24.1 Condition of Demised Premises**

This Lease and exhibits attached hereto and forming a part hereof, set forth all of the covenants, agreements, stipulations, promises, conditions, understandings and representations, hereinafter collectively "Representations" between Landlord and Tenant concerning the Demised Premises and the buildings and improvements to be constructed thereon. Landlord and Tenant agree that there are no Representations other than set forth herein and agree to make no claims against each other based upon Representations not set forth herein.

#### **24.2 Modification**

This Lease shall not be modified or amended unless by a writing signed by Landlord and Tenant.

#### **24.3 Notices**

Any notices or demands required under this Lease shall be in writing addressed to the party at the address set forth Section 1, except that after the Commencement Date any notice to Tenant shall be given in writing at the Demised Premises or such changed address provided in writing by such party and shall be served as follows: (a) by personal service with service being effective upon delivery, or (b) by certified mail, return receipt requested, with service being effective two (2) days after mailing, or (c) by telecopy, facsimile or other form of telecommunication, with service being effective upon the date of transmission with reasonable evidence that the transmission was sent, or (d) by recognized overnight courier service, with service being effective one (1) day after delivery. prepaid, to such courier service.

#### **24.4 Survival**

Any obligation of Tenant under this Lease which is not performed in full prior to the termination of this Lease shall survive the termination of this Lease and continue in full force and effect until performed in full.

#### **24.5 Captions and Section Numbers**

The captions, section numbers, article numbers, and index appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or intent of such sections or articles of this Lease nor in any way affect this Lease.

#### **24.6 Construction**

This Lease shall be construed and enforced in accordance with the laws of the State of Michigan. If any provision of this Lease, or the application thereof to any person or circumstances, shall, to any extent be invalid or unenforceable, the remaining provisions of this Lease shall not be affected thereby and shall be valid and enforceable.

#### **24.7 Binding Effect**

This Lease shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors, assigns and permitted transferees.

#### **24.8 Joint Drafting**

Landlord and Tenant acknowledge and agree that each has joined in and contributed to the drafting of this Lease and as a result there shall be no presumption in construing the provisions of this Lease favoring or burdening either Landlord or Tenant based upon draftsmanship or similar rule of construction.

#### **24.9 Counterparts**

This Lease may be executed in any number of separate counterparts, each of which, when executed and delivered, shall be an original, but such counterparts shall together constitute one and the same document.

[Remainder of Page Intentionally Blank]

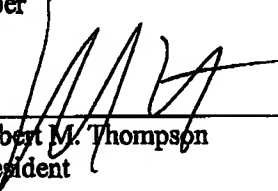
IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the date first written above.

**LANDLORD:**

**TEF-THREE, LLC**, a Michigan limited liability company

By: Thompson Educational Foundation, its sole member

By: \_\_\_\_\_

  
Robert M. Thompson  
President

**TENANT:**

**THE PUBLIC SCHOOL ACADEMIES OF DETROIT**, a Michigan nonprofit corporation

By: \_\_\_\_\_

Edward Parks, President

Lease

**IN WITNESS WHEREOF**, Landlord and Tenant have executed this Lease as of the date first written above.

**LANDLORD:**

**TEF-THREE, LLC**, a Michigan limited liability company

By: Thompson Educational Foundation, its sole member

By: \_\_\_\_\_

Robert M. Thompson  
President

**TENANT:**

**THE PUBLIC SCHOOL ACADEMIES OF DETROIT**, a Michigan nonprofit corporation

By: \_\_\_\_\_

Edward Parks, President

Lease



**EXHIBIT A**  
**Legal Description**

LAND IN THE CITY OF DETROIT, COUNTY OF WAYNE, STATE OF MICHIGAN BEING MORE PARTICULARLY DESCRIBED AS:

PARCEL NO. 1

LOTS 137 THRU 130 AND LOTS 83 THRU 77 AND THE EAST 16 FEET OF LOT 76 AND VACATED ALLEYS ADJACENT, VOIGT PARK SUBDIVISION, AS RECORDED IN LIBER 22 PAGE 94 OF PLATS, WAYNE COUNTY RECORDS.

COMMONLY KNOWN AS: 10225 THIRD STREET  
TAX PARCEL I.D.: WARD 4 ITEM 002780

AFTER A FIELD SURVEY BY NOWAK & FRAUS ENGINEERS, PARCEL NO. 1 IS MORE PARTICULARLY DESCRIBED AS:

BEGINNING AT THE SOUTHEASTERLY CORNER OF LOT 130 OF "VOIGT PARK SUBDIVISION", AS RECORDED IN LIBER 22 OF PLATS, PAGE 94, WAYNE COUNTY RECORDS, SAID POINT ALSO BEING THE NORTHWESTERLY CORNER OF THE THIRD STREET (80' WIDE) AND GLYNN COURT (80' WIDE) INTERSECTION; THENCE S63°59'51"W, 285.00 FEET ALONG THE NORTHERLY RIGHT-OF-WAY OF SAID GLYNN COURT TO THE SOUTHWESTERLY CORNER OF LOT 137 OF SAID "VOIGT PARK SUBDIVISION"; THENCE N26°00'00"W, 117.00 FEET ALONG THE WESTERLY LINE OF SAID LOT 137 TO THE NORTHWESTERLY CORNER OF SAID LOT 137, SAID POINT BEING ON THE SOUTHERLY LINE OF A 19' WIDE PUBLIC ALLEY; THENCE N63°59'51"E, 19.00 FEET ALONG SAID SOUTHERLY LINE OF SAID ALLEY AND THE NORTHERLY LINE OF SAID LOT 137, TO A POINT ON THE EASTERLY LINE OF SAID ALLEY; THENCE N26°00'00"W, 143.17 FEET ALONG SAID EASTERLY LINE OF SAID ALLEY TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY OF CALVERT AVENUE (66' WIDE), AND THE NORTHERLY LINE OF LOT 76 OF SAID "VOIGT PARK SUBDIVISION"; THENCE N63°59'51"E, 266.00 FEET ALONG SAID SOUTHERLY RIGHT-OF-WAY OF SAID CALVERT AVENUE TO THE NORTHEAST CORNER OF LOT 83 OF SAID "VOIGT PARK SUBDIVISION", SAID POINT ALSO BEING THE SOUTHWESTERLY CORNER OF THE SAID THIRD STREET AND SAID CALVERT AVENUE INTERSECTION; THENCE S26°00'00"E, 260.17 FEET ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID THIRD STREET TO THE POINT OF BEGINNING.

CONTAINING 71,428 SFT OR 1.64 ACRES, MORE OR LESS.

PARCEL NO. 2

LOT 138, VOIGT PARK SUBDIVISION, AS RECORDED IN LIBER 22 PAGE 94 OF PLATS, WAYNE COUNTY RECORDS.

COMMONLY KNOWN AS: 860 GLYNN COURT  
TAX PARCEL NO. WARD 4 ITEM 002779

PARCEL NO. 3

LOT 75, VOIGT PARK SUBDIVISION, AS RECORDED IN LIBER 22 PAGE 94 OF PLATS, WAYNE COUNTY RECORDS.

COMMONLY KNOWN AS: 861 CALVERT  
TAX PARCEL NO. WARD 4 ITEM 002819

PARCEL NO. 4

LOT 74, VOIGT PARK SUBDIVISION, AS RECORDED IN LIBER 22 PAGE 94 OF PLATS, WAYNE COUNTY RECORDS.

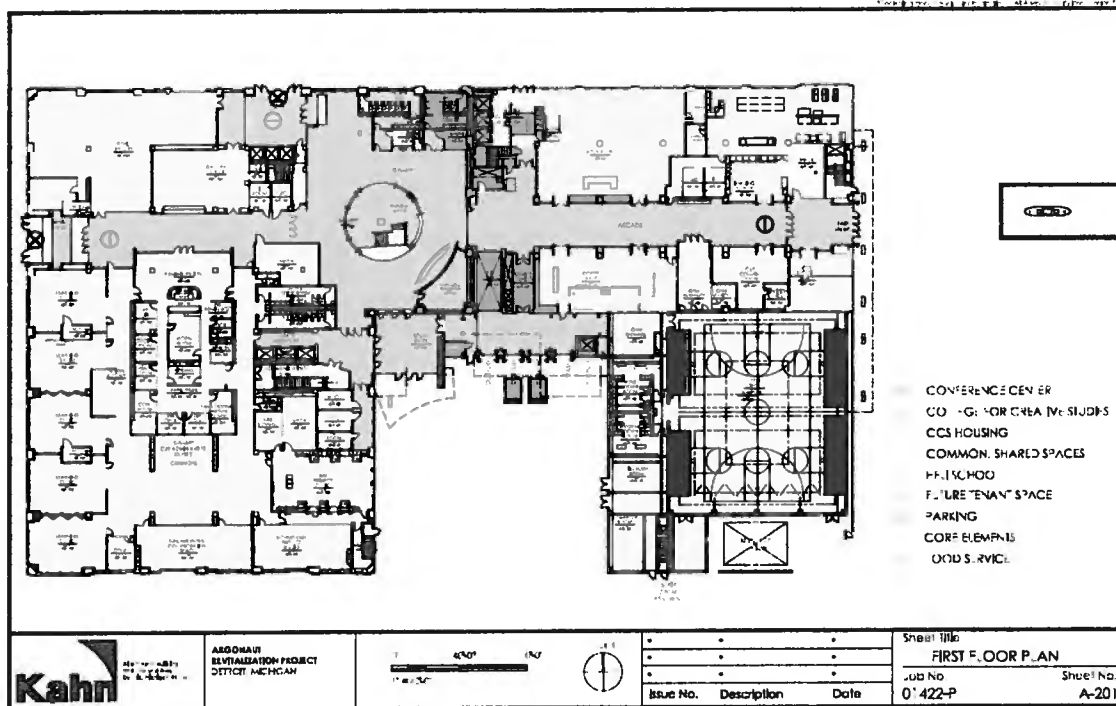
COMMONLY KNOWN AS: 867 CALVERT  
TAX PARCEL NO. WARD 4 ITEM 002820

**EXHIBIT B**  
**Base Rent Schedule**

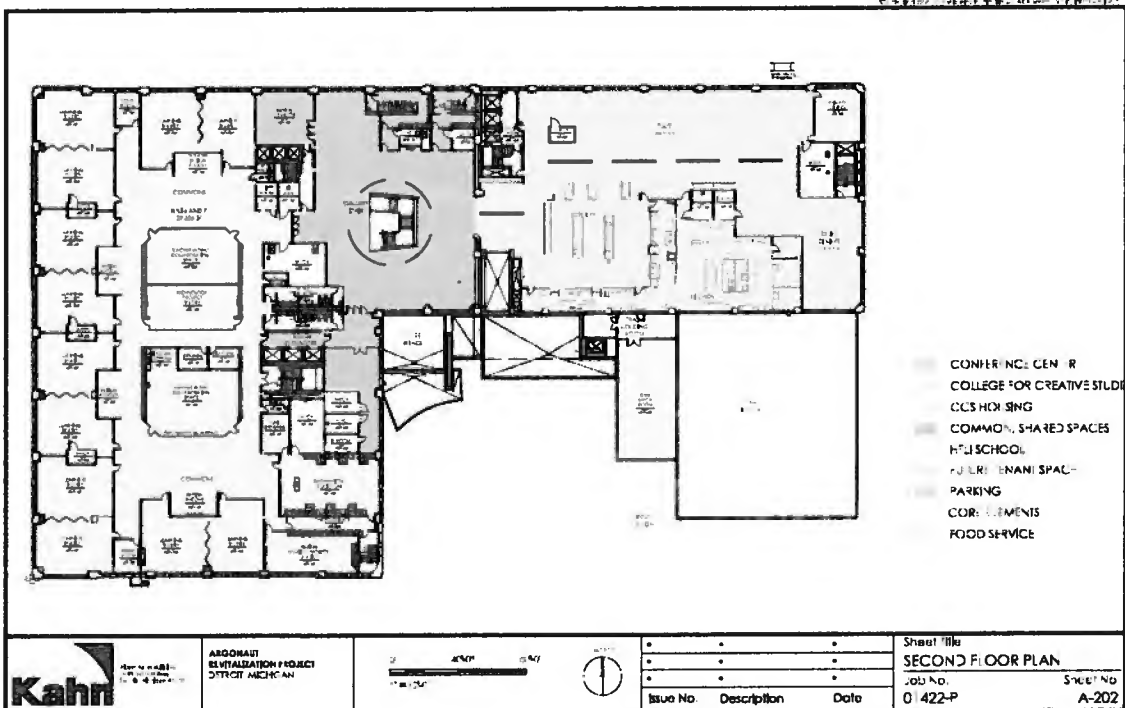
<b><u>Lease Year</u></b>	<b><u>Base Rent</u></b>
2012	70,000
2013	185,000
2014	188,700
2015	192,474
2016	196,323
2017	200,250
2018	210,000
2019	535,000
2020	545,700
2021	556,614
2022	567,746
2023	579,101
2024	590,683
2025	602,497
2026	614,547
2027	626,838
2028	639,375
2029	652,162
2030	665,205
2031	678,509
2032	692,080
2033	705,921
2034	720,040
2035	734,440
2036	749,129
2037	764,112
2038	779,394
2039	794,982
2040	810,881
2041 on	827,099



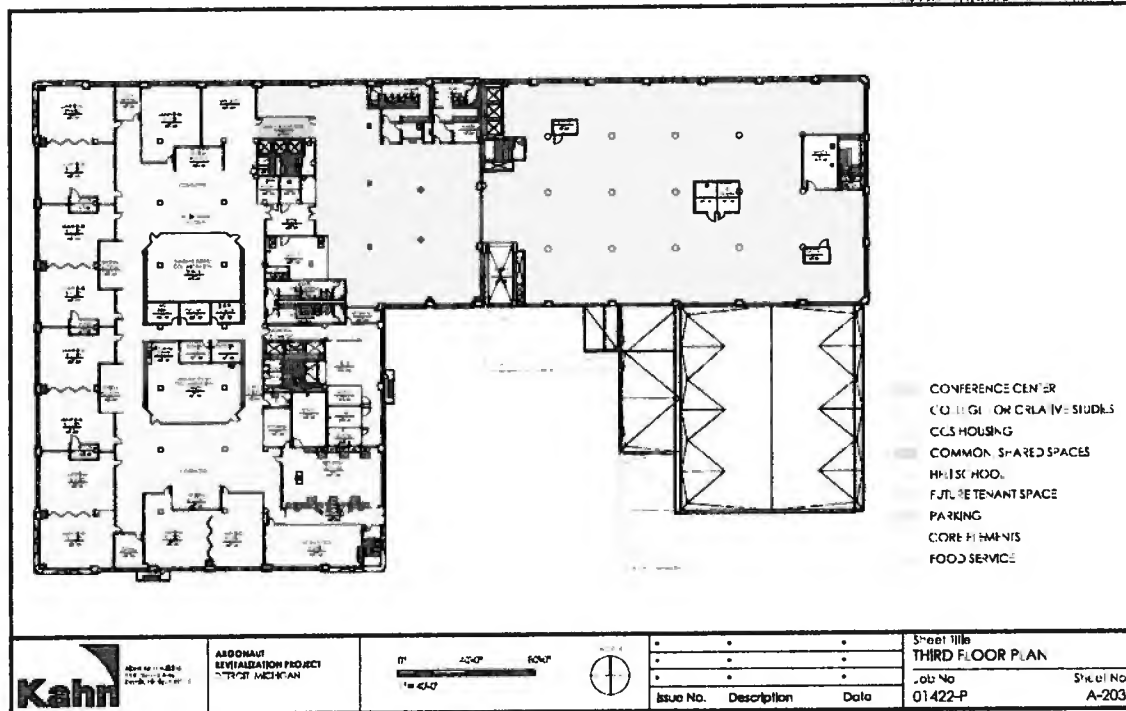
## Floor Plan – 1<sup>st</sup> Floor



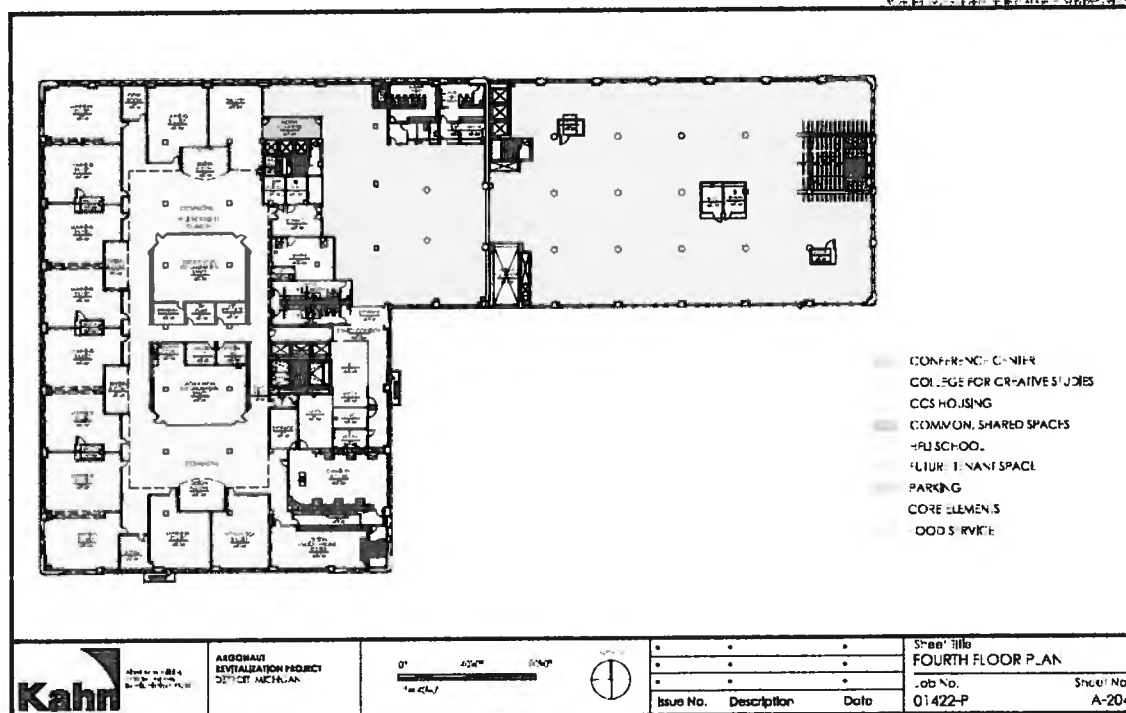
## Floor Plan – 2<sup>nd</sup> Floor



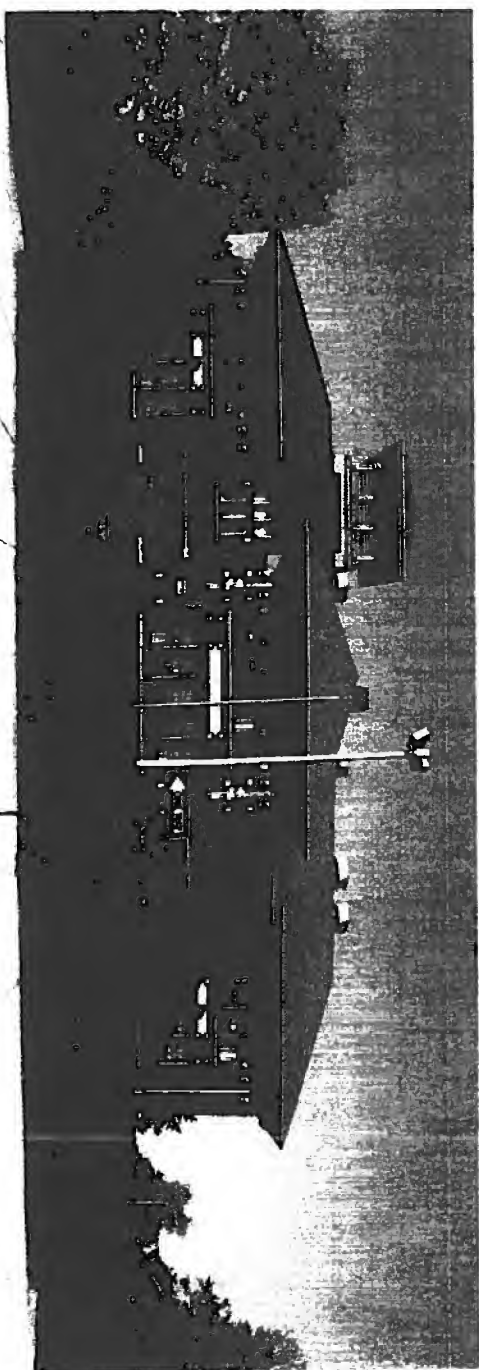
## Floor Plan – 3<sup>rd</sup> Floor



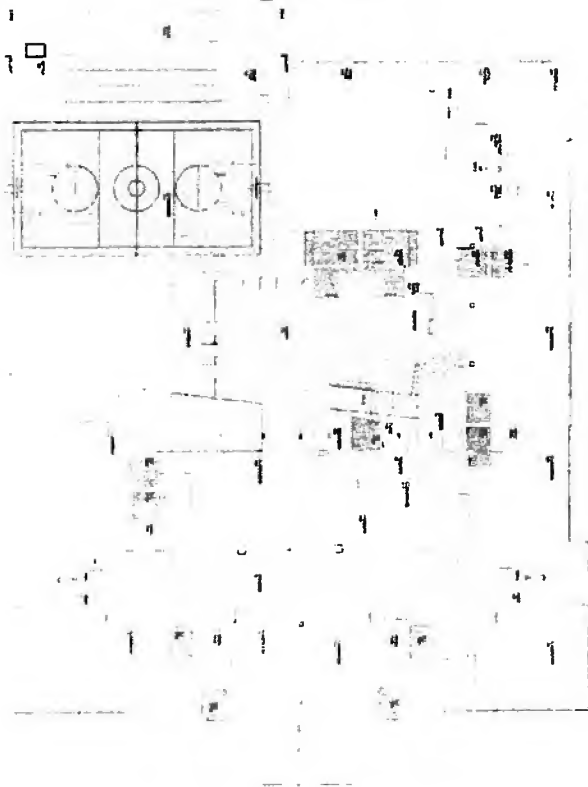
## Floor Plan – 4<sup>th</sup> Floor



# EXHIBIT B



common circulation  
 vertical circulation  
 administration / office  
 classroom  
 classroom  
 studio  
 music / lecture hall  
 lecture hall  
 gymnasium  
 gymnasium  
 dining  
 storage  
 food service  
 mechanical / technical  
 service / delivery  
 green roof



Ground Level Plaza



common circulation  
 vertical circulation  
 administration / office  
 classroom  
 studio  
 music / culture hall  
 lecture room  
 gymnasium  
 storage  
 food service  
 mechanical / electrical  
 service / delivery  
 green roof



First Level Plan



Second Level Plan



**LEASE**

**Between**

**LANDLORD: TEF-THREE, LLC**  
**a Michigan limited liability company,**

**And**

**TENANT: PUBLIC SCHOOL ACADEMIES OF DETROIT,**  
**a Michigan non-profit corporation**

**Dated: December \_\_, 2011**

**LEASE**

**SECTION 1**  
**SCHEDULE**

<b>LANDLORD:</b>	NAME:      TEF-THREE, LLC ADDRESS:   P.O. Box 6349 Plymouth, MI 48170
<b>TENANT:</b>	NAME:      PUBLIC SCHOOL ACADEMIES OF DETROIT ADDRESS:   600 Antoinette, Detroit, MI 48202
<b>DEMISED PREMISES:</b>	Land located in the City of Detroit, Wayne County, Michigan at 10225 3rd Street, Detroit, Michigan as described in legal description attached as <u>Exhibit A</u> (the "Site"), together with all improvements located thereon, including without limitation the existing building, and the Landlord Improvements (defined herein)(collectively, the "Demised Premises")
<b>LEASE TERM:</b>	July 15, 2012 until June 30, 2022 unless terminated sooner pursuant to Paragraph 2.2.
<b>EFFECTIVE DATE</b>	The date this Lease has been executed by Landlord and Tenant below.
<b>COMMENCEMENT DATE:</b>	The term of this Lease shall commence on July 15, 2012.
<b>SCHOOL YEAR</b>	September 1 to June 30
<b>TERMINATION DATE:</b>	June 30, 2022.
<b>BASE RENT:</b>	Base Rent for each Lease Year shall be as set forth in Exhibit B attached hereto.
<b>EXHIBITS ATTACHED:</b>	"A" - Legal Description of Site "B" - Base Rent Schedule

## **SECTION 2**

### **GRANT AND TERM**

#### **2.1 Demised Premises**

Landlord, in consideration of the rents to be paid and the covenants, promises and agreements to be performed by Tenant, does hereby lease to Tenant and Tenant hereby rents from Landlord, the Demised Premises described in Section 1.

#### **2.2 Term**

The term of this Lease shall be for the Lease Term, unless the Lease Term is extended or sooner terminated in accordance with the provisions of this Lease, or automatically and immediately terminated in accordance with Article X of a certain Contract to Charter One or More Urban High School Academies and Related Documents dated December 14, 2007, as amended, by and between GVSU Board of Trustees ("Authorizer") and the Public School Academies of Detroit (the "Charter School Contract").

## **SECTION 3**

### **CONSTRUCTION OF DEMISED PREMISES**

#### **3.1 Construction**

Landlord agrees to cause Substantial Completion (defined below) of the Landlord Improvements, at Landlord's sole cost and expense, prior to the Commencement Date.

#### **3.2 Delays**

In the event Landlord's contractors shall be delayed or hindered in the construction of the Landlord Improvements or prevented from completing such construction or prevented from delivering possession of the Demised Premises on or prior to the Commencement Date because of any strike, lockout, labor dispute; fire, damage or destruction or casualty; unavailability of material; weather; power failures; unavailability of utilities; restrictive governmental laws or regulations; riots; insurrection; war; or any other reason, beyond the reasonable control of the Landlord or its contractors ("Force Majeure Event"), then Landlord shall be excused for the period of delay caused by the Force Majeure Event and the Commencement Date shall be extended for such period of delay, and the Termination Date shall be extended for the same number of days as the Commencement Date has been postponed.

#### **3.3 Substantial Completion**

"Substantial Completion" shall mean the completion of the Landlord Improvements so that the Demised Premises is available and all required governmental permits and approvals have been obtained (including a certificate of occupancy) for occupancy and use by Tenant as a public school academy for use as a high school.

**SECTION 4**  
**POSSESSION AND COMMENCEMENT OF TERM**

**4.1 Possession and Commencement of Lease Term**

Landlord shall deliver actual possession of the Demised Premises to Tenant on or before the Commencement Date, but if delivery is delayed by reason of a Force Majeure Event, the date upon which such possession is delivered shall constitute the "Commencement Date" in lieu of the date provided in Section 1 and the Termination Date provided in Section 1 shall be extended for the same number of days. In the event that Tenant occupies the Demised Premises prior to the Commencement Date, the Commencement Date shall be the date that Tenant occupies the Demised Premises, but the Termination Date shall not be changed from the date provided in Section 1. Landlord shall, when construction progress so permits, notify Tenant of the date that Substantial Completion of the Landlord Improvements is anticipated. By occupying the Demised Premises, Tenant will be deemed to have accepted the Landlord Improvements and the Demised Premises. The Rent, as defined herein, due under this Lease and the term of this Lease shall commence on the Commencement Date.

**4.2 Landlord Not Liable For Delays**

Under no circumstances shall Landlord be liable for any delays in the delivery of possession to Tenant on the Commencement Date. Tenant's sole and exclusive remedy shall be the abatement of Rent until the Demised Premises are ready for occupancy and possession is delivered to Tenant.

**4.3 Memorandum**

Within 30 days after the delivery of possession to Tenant, Tenant shall join with Landlord in the execution of a written memorandum confirming the Commencement Date and Termination Date of the Lease Term. Tenant's failure to execute the Memorandum (if requested by Landlord) shall be a default by Tenant under this Lease.

**SECTION 5**  
**BASE RENT**

**5.1 Base Rent**

Tenant shall pay to Landlord Base Rent during the Lease Term. Base Rent shall be payable in [one annual payment in advance on the Commencement Date and the first day of each Lease Year] thereafter at the office of Landlord stated in Section 1 or such other place designated by Landlord.

**5.2 Rent Net of Expenses**

Landlord and Tenant intend that Base Rent due hereunder, together with any adjustments during the Lease Term shall be absolutely net of all costs, expenses, taxes (real and personal) and charges of every kind and nature whatsoever relating to the ownership, occupancy or use of the Demised Premises. To the extent permitted by law and without

waiving any privilege or immunity, Tenant shall indemnify and hold Landlord harmless from and against any such costs, expenses, taxes (real or personal) and charges for which Tenant is responsible under this Lease.

### **5.3 Additional Rent**

All amounts due from Tenant and payable to Landlord or the provider of any service (such as utilities, maintenance, etc.), if provided direct to Tenant, excluding Base Rent, including, without limitation, utilities, taxes, maintenance and insurance costs shall be deemed to be additional rent ("Additional Rent"). Upon Tenant's failure to pay any such amount, Landlord, in addition to any other remedies, shall have the same remedies provided for Tenant's failure to pay Base Rent (Base Rent, together with the Additional Rent, shall be collectively referred to as "Rent"). Tenant shall pay any and all sums of money or charges required to be paid by Tenant under this Lease, including, but not limited to, Additional Rent, promptly when the same are due, without any deductions or setoff whatsoever except as otherwise specifically set forth herein. Landlord will forward to Tenant any bills Landlord receives that Tenant is obligated to pay, including but not limited to tax, utility and other service bills, within five (5) days of Landlord's receipt thereof.

### **5.4 Lease Year**

"Lease Year" shall mean a period of twelve (12) consecutive calendar months, except (a) the last year of the Lease Term, which shall expire on the Termination Date and (b) the first Lease Year, shall begin on the Commencement Date and expire on December 31, 2012.

## **SECTION 6** **UTILITIES**

Tenant agrees to pay all charges made against the Demised Premises for gas, heat, water, air conditioning, electricity, sanitary and storm sewage disposition, telephone and all other utilities ("Utilities") during the Lease Term (but specifically excluding the expenses of bringing Utilities to the Site and to the improvements constituting the Landlord Improvements and separately metering the Utilities, which costs are included as part of the Landlord Improvements) as the same shall become due all of which shall be separately metered and billed directly to Tenant. Landlord shall not be liable to Tenant for the quality or quantity of any such utilities, or for any interruption in the supply of any such utilities.

## **SECTION 7** **TAXES AND ASSESSMENTS**

### **7.1 Obligation**

Tenant agrees to pay to Landlord as Additional Rent any and all Taxes (as defined in Section 7.2) assessed against the Demised Premises for each Lease Year or partial Lease Years during the Lease Term.

## **7.2 Definition**

"Taxes" shall be defined as: (a) all taxes (either real or personal), assessments (general or specific), all water and sewer charges, and all other governmental impositions, which may be levied during the Lease Term upon the land, buildings or improvements comprising the Demised Premises or any part thereof; (b) all other taxes and other charges imposed by the State of Michigan or any subdivision thereof which: (1) are in replacement of or in lieu of increases in all or any part of ad valorem taxes as sources of revenue and (2) are based in whole or in part upon Demised Premises or any interest therein or the ownership thereof, or the rents, profits or other income therefrom, including, without limitation, income, single business, franchise, excise, license, privilege, sales, use, and occupancy taxes; (c) a tax or surcharge of any kind or nature upon, against or with respect to the parking areas or the number of parking spaces on the Demised Premises; and (d) all costs and expenses incurred by Landlord during the lease term for negotiations for or contests of the amount of such taxes and assessments, without regard to the result, including, without limitation, actual attorneys' fees; provided, that Tenant pre-approves such contests for taxes or assessments. Taxes shall not include any tax on the net income of Landlord, except to the extent included in subparagraph (b) above.

## **7.3 Payments**

Taxes on the Demised Premises levied or assessed for or during the Lease Term shall be paid to Landlord within ten (10) days after Landlord delivers to Tenant a statement for such Taxes. The Taxes for the years in which this Lease commences and terminates shall be prorated on a due date basis.

## **7.4 Tenant's Taxes**

Tenant shall pay all real and personal property taxes levied or assessed against Tenant's property and improvements upon or affixed to the Demised Premises, including taxes attributable to all alterations, additions, or improvements made by Tenant.

# **SECTION 8**

## **USE OF DEMISED PREMISES**

### **8.1 Use of Demised Premises**

Tenant shall use and occupy the Demised Premises during the Lease Term only for (a) the purpose of establishing, managing, and operating a public school academy for use as a elementary school known as the Henry Ford Academy Elementary School and attendant office use (the "Tenant Project Business"), and for no other purpose without the prior written consent of Landlord, which may be granted or withheld in its sole and absolute discretion, provided that such use does not include (A) the rental to others of residential rental property, which is defined in Section 168(e)(2)(A) of the Internal Revenue Code of 1986 (the "Code") as property where eighty percent (80%) or more of the gross rental income from such property is derived from the rental of dwelling units, or (B) the operation of any: (1) private or commercial golf course, (2) country club, (3) massage parlor, hot tub facility, or suntan facility, (4) race track or other facility used for gambling,



or (5) store the principal business of which is the sale of alcoholic beverages for consumption off premises. Tenant shall not use or permit any person to use the Demised Premises or any part thereof for any use or purpose other than the use stated in this Lease or in violation of any law, statute, order, ordinance, code, rule or regulation of any federal, state or municipal body or other governmental agency or authority having jurisdiction thereof, including, without limitation, zoning, land use and building ordinances, uses and requirements; occupational safety and health requirements; community right-to-know requirements; the Americans With Disabilities Act of 1990; and state and federal environmental laws (collectively "Laws"), affecting the Demised Premises, if any; provided, however, that Tenant shall not be responsible for any violation of Laws or any condition at the Demised Premises existing on or before the Commencement Date. Tenant shall comply strictly with each and every term, condition and requirement of the Charter School Contract.

#### **8.2 Care of Demised Premises**

Tenant shall keep the Demised Premises orderly, neat, safe and clean and free from rubbish and dirt at all times and shall store all inventory, supplies, trash and garbage within the buildings on the Demised Premises. Tenant shall keep the driveways and walkways within the Demised Premises free from snow and ice, and shall arrange for the regular removal of snow during the winter months and the pick up of trash and garbage at Tenant's expense. At the expiration of the Lease Term, or the sooner termination thereof, Tenant shall surrender the Demised Premises in as good condition and repair as existed at the time Tenant took possession, reasonable wear and tear excepted.

#### **8.3 Hazardous Substances**

Tenant shall not use, cause or permit the Demised Premises to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process hazardous substances.

### **SECTION 9 INDEMNITY**

#### **9.1 Indemnity**

To the extent permitted by applicable law and without waiving any privilege or immunity, Tenant shall defend, indemnify and hold harmless Landlord and Landlord's officers, directors, employees and agents (regardless of any negligence imputed to Landlord by law due to its ownership of the real property involved), from and against any and all claims, suits, personal injuries, death, property damage, liabilities, damages, losses, costs or expenses, including, without limitation, reasonable legal, accounting, consulting, engineering and other expenses (collectively "Damages") which may be imposed upon, incurred by, or asserted against Landlord or Landlord's officers, directors, employees or agents (collectively "Indemnified Parties"), arising directly or indirectly from any (a) occurrence on or about the Demised Premises from any cause whatsoever from and after

the Commencement Date and during the Lease Term, (b) failure of Tenant to comply with any provision of this Lease, (c) failure of any subtenant to comply with any provision of any sublease, (d) occupancy or use by Tenant and/or subtenant of the Demised Premises or any act or omission of Tenant, its employees, agents, representatives, invitees, licensees and contracting parties or any subtenant, or (e) failure of Tenant to strictly comply with the terms and conditions of the Charter School Contract. The indemnities provided herein shall include attorneys' fees incurred by the Indemnified Parties in connection with such Damages or to enforce the indemnity given hereunder. Tenant shall not be required, however, to indemnify Landlord against Damages arising from Landlord's gross negligence or willful misconduct. Any liability or loss as to which the Indemnified Parties are entitled under this Section 9.1 and all expenses incurred in connection therewith including, but not limited to, attorneys fees, shall constitute Additional Rent payable upon demand.

#### **9.2 Liability Insurance**

Tenant shall procure and keep in effect during the Lease Term commercial, general liability insurance on an occurrence basis, including operations and insured contract coverage, for personal injury or death or property damage occurring in, upon or about the Demised Premises or any street, drive, sidewalk, curb or passageway adjacent thereto in the amount reasonably required by Landlord (but in no event less than Ten Million (\$10,000,000 ) Dollars combined single limit per occurrence, which may be based on a combination of primary coverage plus excess insurance or "umbrella" coverage. Any contractual liability coverage for indemnifications given by Tenant under this Lease shall not in any way limit such indemnifications.

#### **9.3 Delivery of Policy.**

Tenant shall provide Landlord with evidence of the above-referenced insurance on or before the Commencement Date. Evidence of such insurance shall be in the form of an insurance policy or binder. Landlord shall be named as an additional insured on all such policies. Such insurance policies shall prohibit cancellation, alterations, changes, amendments, modifications, deletions or reductions in coverage either at the insistence of Tenant or the insurance company issuing the policy, without at least thirty (30) days prior written notice having been given to Landlord. If Tenant fails to maintain such insurance coverage, Landlord may, at its option, procure such insurance for the account of Tenant and the cost thereof shall be paid by Tenant to Landlord upon delivery to Tenant of bills therefore. The insurer or insurers shall be such as may from time to time be approved by Landlord and shall be issued by insurance companies authorized to do business in the State of Michigan.

### **SECTION 10** **MAINTENANCE AND REPAIRS**

#### **10.1 Maintenance And Repairs**

Tenant shall, at its sole cost and expense, during the Lease Term, maintain, repair and replace and keep neat and in good appearance and condition the Demised Premises,

including, but not limited to, the roof, exterior, interior, ceiling, electrical system, plumbing system, HVAC system, storm sewers, sanitary sewers, water main, the driveways, walkways, parking area, lighting facilities, landscaping and land, which are part of the Demised Premises; provided, however, that Tenant shall not be responsible for (a) latent defects at the Demised Premises, or (b) any work covered by warranties Landlord receives from any construction contractor, subcontractor or materialman providing services and/or material in connection with the Landlord Improvements, all of which maintenance Landlord shall be responsible to cause to be performed at its cost. The plumbing system, including the sewage facility, serving the Demised Premises shall not be used for any purpose other than for which it was constructed and Tenant shall not introduce any matter therein which results in blocking such system. Tenant shall, at its sole cost and expense, also repair or replace the driveways, walkways, parking areas, and landscaping on the Demised Premises. Tenant shall, at its sole cost and expense, contract with contractors acceptable to Landlord (except in the case of emergency) for the performance of all maintenance, repairs and replacement required of Tenant under this Lease. Tenant shall perform such maintenance, repairs and replacement so as to maintain the Demised Premises in the same condition in which it was delivered to Tenant, reasonable wear and tear excepted. Such maintenance, repair and replacement obligations of Tenant shall include items deemed to be capital improvements for tax purposes. The maintenance, repair and replacement obligations of Tenant hereunder, shall survive termination of this Lease to the extent such obligations accrued prior to the termination of this Lease.

Tenant agrees to establish an capital reserve fund for major capital repairs or replacements of the Demised Premises (the "Capital Reserve") that shall contain at least \$40,000 at the start of the fourth Lease Year. At the start of each successive Lease Year, the Capital Reserve shall increase by \$40,000. If none of the Capital Reserve is spent during the initial five (5)-year Lease Term, the balance would contain an amount of \$80,000 at the end of the Lease Term. The Capital Reserve shall be available for major capital repairs or replacement of the Demised Premises, such as major repair or replacement of a building roof, an HVAC unit, the plumbing system, the water main, the electrical system, or other major facility elements. Withdrawal of funds from the Capital Reserve account shall require the signatures of both Landlord and Tenant. Withdrawal of funds from the Capital Reserve for furniture, fixtures, equipment or technology related items, such as computers and software, is prohibited. If Tenant exercises its option to extend the Lease Term, Tenant shall place \$40,000 a Lease Year into the Capital Reserve until a total of \$200,000 has been placed into the Capital Reserve.

## **10.2 Compliance With Laws**

During the term of this Lease, Tenant shall comply with all Laws (as defined in Section 8.1) and make any repairs, additions, modifications or alterations to the Demised Premises, regardless of the nature thereof, which are required by any Laws or required by the insurance carrier to maintain the insurance required under this Lease; provided, however, that Tenant shall not be responsible for any conditions existing at the Demised Premises prior to the Lease Commencement Date, or to perform any obligation that was to be performed by Landlord as part of the Landlord Improvements.

**SECTION 11**  
**TENANT'S ALTERATIONS**

Tenant shall not make any structural alterations, additions, modifications or improvements to the Demised Premises without the prior written consent of Landlord, which consent may be granted or withheld in the sole and absolute discretion of Landlord. Tenant shall not make any non-structural alterations, additions, modifications or improvements having a cost in excess of \$10,000 to the Demised Premises without the prior written consent of Landlord, which consent shall not be unreasonably withheld.

**SECTION 12**  
**PROPERTY INSURANCE, REBUILDING AND WAIVER OF SUBROGATION**

**12.1 Property Insurance**

Tenant shall, during the Lease Term, at its sole cost and expense keep the Demised Premises insured for the benefit of Landlord:

(i) by an "All Risk of Physical Loss" policy with the broadest form of extended coverage endorsement in an amount sufficient to prevent Landlord from becoming a co-insurer under the policies or Laws, including special extended coverage endorsements reasonably required by Landlord in an amount equal to the full replacement and reconstruction cost and valued on a replacement cost basis of the building and improvements which are a part of the Demised Premises (including any alterations made by Tenant and incorporated into the Demised Premise) as determined solely by Landlord, without allowance for depreciation and exclusive of the cost of excavations, foundations and footings;

(ii) against damage by flood if the Site is located in an area identified by the Secretary of Housing and Urban Development, or any successor, as an area having special flood hazard and in which flood insurance has been made available under the Flood Acts, in an amount determined solely by Landlord;

(iii) against damage or loss from (1) sprinkler system leakage, and (2) boilers, if any, boiler tanks, if any, heating and air-conditioning equipment, pressure vessels, auxiliary piping and similar apparatus, in an amount determined solely by Landlord; and

(iv) during the period of any construction, repair, restoration, or replacement of the Demised Premises, performed after the construction of the Landlord Improvements, by a standard builder's risk policy with extended coverage in an amount at least equal to the full replacement and reconstruction cost and valued on a replacement cost basis, workers compensation in statutory amounts, and such endorsements as required by Landlord

Tenant shall provide Landlord with evidence of the above-referenced insurance on or before the Commencement Date. Evidence of such insurance shall be in the form of an insurance policy or binder. Landlord shall be named as an additional insured and loss payee on all such policies. Such insurance policies shall prohibit cancellation, alterations,

changes, amendments, modifications, deletions or reductions in coverage either at the insistence of Tenant or the insurance company issuing the policy, without at least thirty (30) days prior written notice having been given to Landlord. If Tenant fails to maintain such insurance coverage, Landlord may, at its option, procure such insurance for the account of Tenant and the cost thereof shall be paid by Tenant to Landlord upon delivery to Tenant of bills therefore. The insurer or insurers shall be such as may from time to time be approved by Landlord and shall be issued by insurance companies authorized to do business in the State of Michigan.

#### **12.2 Rebuilding**

If the Demised Premises shall become damaged by fire or other casualty, Landlord may either restore the Demised Premises or make it tenable (to the extent of available insurance proceeds) or terminate this Lease by notifying the Tenant of such termination within thirty (30) days after the date of such damage, at its sole option. Tenant shall immediately notify Landlord of the occurrence of a fire or other casualty at the Demised Premises.

#### **12.3 Waiver of Subrogation**

Any property insurance policy carried by Landlord or Tenant or any policy covering both the interest of Landlord or Tenant under this Section 12 shall include a provision under which the insurance company waives all right of recovery by way of subrogation against Landlord or Tenant in connection with any loss or damage covered by any such policy. Landlord or Tenant hereby release and discharge each other from any liability whatsoever arising from any loss, damage or injury caused by fire or other casualty to the extent of the insurance covering such loss, damage or injury.

### **SECTION 13** **EMINENT DOMAIN**

#### **13.1 Condemnation**

If all or any material part of the Demised Premises shall be taken or condemned by any competent authority for any public use or purpose, the Lease Term shall, at the option of Landlord, end as of the date of a stipulation, agreement, or order of possession. If the Demised Premises may not be reasonably used for the purpose contemplated by this Lease following any taking, Tenant, at its sole and absolute discretion, may terminate this Lease by written notice to Landlord. In the event of a termination pursuant to this Section, Rent shall be pro rated to the date of such taking. In the event of a condemnation, Landlord shall be entitled to the entire condemnation award, except that Tenant shall be entitled to receive any portion of the condemnation proceeds awarded for Tenant moving costs and related expenses, diminution in value of the leasehold interest only, and other just compensation and reimbursement to which Tenant is entitled from the condemning authority.

**SECTION 14**  
**ACCESS TO PREMISES**

Landlord or Landlord's agent shall have the right to enter the Demised Premises at all reasonable times to inspect or examine the same, and to make such tests, repairs, alterations, improvements or additions as Landlord may deem necessary or desirable. Landlord shall conduct all inspections and examinations and all repairs, alterations, improvements and/or additions in such a manner so as to not unreasonably disrupt the operations of Tenant at the Demised Premises. Landlord and Landlord's agent shall comply with all Laws when accessing the Demised Premises.

**SECTION 15**  
**FIXTURES AND EQUIPMENT**

All furnishings, fixtures and equipment installed by Landlord shall remain the property of Landlord at the termination of this Lease. Unless otherwise agreed to in a prior writing signed by Landlord and Tenant, if Tenant installs any furnishings, fixtures or equipment during the Term of this Lease that are incorporated into and/or affixed to the buildings or improvements located on the Demised Premises and cannot be removed without substantial damage or injury to the buildings or improvements, then they shall become the property of Landlord at the termination of the Lease Term and shall not be removed without Landlord's prior written consent, which may be granted or withheld in its sole and absolute discretion. All fixtures and equipment installed by Tenant and not removed at the termination of the Lease Term shall remain the property of Landlord. In the event Landlord consents to such removal, Tenant shall remove such fixtures in accordance with all applicable Laws and shall repair any such damage or injury in a good and workmanlike manner.

**SECTION 16**  
**ASSIGNMENT, SUBLETTING AND TRANSFERS BY TENANT**

Tenant shall not sell, assign, sublet, hypothecate, encumber, mortgage or in any manner transfer this Lease or any estate or interest therein (including any transfer by operation of law or otherwise), the Demised Premises or any part thereof or permit the use of the Demised Premises by any person or entity other than Tenant without the prior written consent of the Landlord, which may be granted or withheld in its sole and absolute discretion.

**SECTION 17**  
**SALE OR TRANSFER**

Landlord shall have the right to sell, transfer or assign the Demised Premise ("Conveyance"). In the event of Conveyance, Tenant shall attorn to the purchaser, transferee or assignee ("Transferee") and recognize such Transferee as Landlord under this Lease and Landlord shall be relieved from all subsequent obligations and liabilities under this Lease, provided such obligations are assumed in writing by such Transferee and a copy thereof is provided to Tenant.

**SECTION 18**  
**DEFAULT, RE-ENTRY AND DAMAGES**

**18.1 Default**

The following shall constitute a default ("Default") under this Lease:

- (a) Tenant fails to pay within seven (7) days of the due date any Base Rent or Additional Rent due hereunder on the day the same shall be due;
- (b) Tenant fails to perform any of the terms and conditions under this Lease, other than the payment of Base Rent or Additional Rent, and such failure remains uncured for thirty (30) days following written notice;
- (c) Tenant not operating the HFA:SCS Elementary at the location in accordance with the Charter School Contract.
- (d) Tenant has abandoned or vacated the Demised Premises;
- (e) Tenant fails to meet any one or more of the following performance standards relating to its operation of a public school academy as an elementary school ("Elementary School") on the Demised:
  - 1. At least 90% of the graduating 5th graders enter a Tenant middle school the following fall every year beginning in September 2013;
  - 2. An average daily attendance rate of 92.5%; and
  - 3. Meet the Adequate Yearly Progress (AYP) requirements of *No Child Left Behind*;
  - 4. By 2018, the Elementary School will meet the "Good School" standards of the Skillman Foundation (Schools must meet a requirement that at least 75% of the students have met or exceeded acceptable achievement standards in two of the following three areas: mathematics, reading/language arts and science. In addition, schools must have a 90% attendance rate and meet Adequate Yearly Progress).
- (f) The failure of Tenant to establish policies required by the Charter School Contract when and as required by the Charter School Contract.
- (g) The termination or expiration of the Charter School Contract or any failure to renew or extend the Charter School Contract for any reason or no reason; unless Tenant enters into a replacement charter contract which authorizes Tenant to operate a public school academy at the Demised Premises for the same grade range as the Charter School Contract.
- (h) The failure of Tenant to comply with any Reporting Requirement set forth in Section 19 of this Agreement.

## **18.2 Landlord's Remedies Upon Default**

(a) In the event of the occurrence of a Default, in addition to all of its other remedies under this Lease and available at law or in equity, Landlord shall have the right to re-enter the Demised Premises, in accordance with applicable law, to remove all persons and property therefrom. Upon the occurrence of a Default, Landlord, at its option, may either terminate this Lease, or without terminating this Lease, relet the Demised Premises or any part thereof on such terms and conditions, as Landlord deems advisable in its sole and absolute discretion. No such eviction, entry or taking of possession of the Demised Premises, whether through summary eviction proceedings or by self-help, shall be construed as an election on its part to terminate this Lease unless Landlord provides written notice of such intention to Tenant or unless termination is declared by a court of competent jurisdiction.

(b) In addition to any other remedy provided for herein, if Landlord brings suit to recover possession of the Demised Premises or money due under this Lease or a suit for the breach of an obligation Tenant should have performed under the Lease and if the Landlord prevails, the Tenant shall pay the Landlord for expenses incurred in the action, including reasonable attorneys fees. Such expenses shall be deemed to have an incurred when the action commences and shall be enforced whether or not the action is prosecuted to judgment. In the event Tenant prevails in any lawsuit in connection with the Demised Premises, Tenant shall have its expenses, including reasonable attorney fees, paid by Landlord.

## **18.3 Waiver of Jury Trial and Counterclaim**

In the event Landlord commences any proceedings for non-payment of Rent, Additional Rent, or any other amount payable to Landlord by Tenant, Tenant shall not interpose any counterclaim of whatsoever nature or description in any such proceeding unless same is a compulsory or mandatory counterclaim. This shall not, however, be construed as a waiver of Tenant's right to assert such a claim in any separate action brought by Tenant. Landlord and Tenant waive trial by jury in any action or proceeding brought by either party on any matter whatsoever arising out of or in any way connected with this Lease, the relationship of lessor and lessee, Tenant's use or occupancy of the Demised Premises, or any claim of injury or damage.

## **SECTION 19** **REPORTING**

### **19.1 School Reports**

During the Lease Term, as soon as available, but in no event after the period set forth herein, Tenant shall furnish or, where information is maintained on government online databases or formats, make available to Landlord the following documents with respect to the School:

a) within sixty (60) calendar days after the beginning of each fiscal year of Tenant, annual enrollment for the School, including, without limitation, federal free and reduced-



price lunch eligibility and special education and ethnicity enrollment;

b) within thirty (30) calendar days of Tenant's receipt as to the School and to the extent not otherwise prohibited by applicable law: (A) "Annual School Report Card" required by the No Child Left Behind Act, and the following additional information if not included in the Annual School Report Card: performance on mandated state educational tests and internally-administered tests; (B) all programmatic quality reporting, including reports to the charter authorizer; and (C) all material correspondence from the charter authorizer; and

c) Promptly after request, the Borrower shall furnish to Landlord such additional information, reports, statements, and certificates with respect to the School as Landlord may from time to time reasonably request, in form and content reasonably satisfactory to the Landlord.

Borrower and Landlord acknowledge and agree that certain student-identifying information (including, without limitation, names and social security numbers) may be redacted from documents provided to Landlord pursuant to this 19.1 to protect the privacy of students of the School prior to such documents being delivered to Landlord.

## **19.2 Financial Reports**

Tenant shall deliver to Landlord (i) within one hundred twenty (120) days of the end of Tenant's fiscal year, financial statements for Tenant (including, at a minimum, a balance sheet, an income statement showing breakeven or better financial performance, and a statement of cash flow), which financial statements include specific details for Tenant Business and are certified as true and correct by an authorized officer of Tenant, in a form reasonably satisfactory to Landlord in all respects and audited by an independent certified public accountant reasonably approved by Landlord. All financial statements shall be prepared in accordance with generally accepted accounting practices for public school accounting in the State of Michigan. Tenant shall deliver to Landlord such other financial information with respect to Tenant, the Tenant Business, and the Demised Premises as Landlord may reasonably request from time to time.

## **SECTION 20 QUIET ENJOYMENT**

Landlord covenants that so long as no Default has occurred and is continuing, Tenant may peacefully and quietly hold and enjoy the Demised Premises for the Lease Term without interference by Landlord or any person claiming by, through or under Landlord.

## **SECTION 21 SUBORDINATION**

This Lease is and shall be subject and subordinate to all mortgages and ground or underlying leases which may now or hereafter affect the Demised Premises, and to all renewals, modifications, consolidations, replacements and extensions thereof. In confirmation of such subordination, Tenant shall execute and deliver upon demand such

further instrument or instruments subordinating this Lease to the lien of any such mortgage or mortgages as shall be desired by Landlord, as well as any mortgages or proposed mortgages. Tenant hereby irrevocably appoints Landlord the attorney-in-fact of Tenant to execute and deliver any such instrument or instruments for and in the name of Tenant. Any mortgagee of the Landlord shall be entitled to rely upon and enforce the terms of this Section 21 as a third party beneficiary.

## **SECTION 22**

### **SIGNS**

Tenant will not place or cause to be placed or maintained any sign or advertising matter of any kind anywhere on the Demised Premises, except in the interior thereof, without Landlord's prior written approval.

## **SECTION 23**

### **OPTION TO EXTEND**

#### **23.1 Option to Extend Lease Term**

So long as no Default has occurred and is continuing, Tenant shall have three options to extend the Lease Term for three additional ten (10) year terms on the same terms and conditions set forth herein (each an "Option to Extend"). The Base Rent for each Lease Year of such extended term(s) shall be as set forth in Exhibit B. Each Option to Extend the Lease Term is personal to the Tenant and is not transferable or exercisable by any transferee.

#### **23.2 Exercise of Option**

Tenant may exercise an Option to Extend by providing Landlord with written notice of exercise not more than fifteen (15) months or less than twelve (12) months prior to the expiration of the then current ten (10) year Lease Term.

## **SECTION 24**

### **MISCELLANEOUS**

#### **24.1 Condition of Demised Premises**

This Lease and exhibits attached hereto and forming a part hereof, set forth all of the covenants, agreements, stipulations, promises, conditions, understandings and representations, hereinafter collectively "Representations" between Landlord and Tenant concerning the Demised Premises and the buildings and improvements to be constructed thereon. Landlord and Tenant agree that there are no Representations other than set forth herein and agree to make no claims against each other based upon Representations not set forth herein.

#### **24.2 Modification**

This Lease shall not be modified or amended unless by a writing signed by Landlord and Tenant.

#### **24.3 Notices**

Any notices or demands required under this Lease shall be in writing addressed to the party at the address set forth Section 1, except that after the Commencement Date any notice to Tenant shall be given in writing at the Demised Premises or such changed address provided in writing by such party and shall be served as follows: (a) by personal service with service being effective upon delivery, or (b) by certified mail, return receipt requested, with service being effective two (2) days after mailing, or (c) by telecopy, facsimile or other form of telecommunication, with service being effective upon the date of transmission with reasonable evidence that the transmission was sent, or (d) by recognized overnight courier service, with service being effective one (1) day after delivery, prepaid, to such courier service.

#### **24.4 Survival**

Any obligation of Tenant under this Lease which is not performed in full prior to the termination of this Lease shall survive the termination of this Lease and continue in full force and effect until performed in full.

#### **24.5 Captions and Section Numbers**

The captions, section numbers, article numbers, and index appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or intent of such sections or articles of this Lease nor in any way affect this Lease.

#### **24.6 Construction**

This Lease shall be construed and enforced in accordance with the laws of the State of Michigan. If any provision of this Lease, or the application thereof to any person or circumstances, shall, to any extent be invalid or unenforceable, the remaining provisions of this Lease shall not be affected thereby and shall be valid and enforceable.

#### **24.7 Binding Effect**

This Lease shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors, assigns and permitted transferees.

#### **24.8 Joint Drafting**

Landlord and Tenant acknowledge and agree that each has joined in and contributed to the drafting of this Lease and as a result there shall be no presumption in construing the provisions of this Lease favoring or burdening either Landlord or Tenant based upon draftsmanship or similar rule of construction.

#### **24.9 Counterparts**

This Lease may be executed in any number of separate counterparts, each of which, when executed and delivered, shall be an original, but such counterparts shall together constitute one and the same document.

[Remainder of Page Intentionally Blank]

**IN WITNESS WHEREOF**, Landlord and Tenant have executed this Lease as of the day of May, 2011.

**LANDLORD:**

**TEF-THREE, LLC**, a Michigan limited liability company

By: Thompson Educational Foundation, its sole member

By: \_\_\_\_\_

Robert M. Thompson  
President

**TENANT:**

**THE PUBLIC SCHOOL ACADEMIES OF DETROIT**, a Michigan nonprofit corporation

By: \_\_\_\_\_

Edward Parks, President

**EXHIBIT A**  
**Legal Description**

**EXHIBIT B**  
**Base Rent Schedule**

**[TBD upon finalization of tax credit projections]**

# **CERTIFICATE OF USE AND OCCUPANCY**

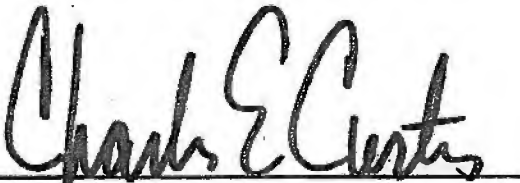
## **PERMANENT**

**Michigan Department of Energy, Labor & Economic Growth  
Bureau of Construction Codes/Building Division  
P. O. Box 30254  
Lansing, MI 48909  
(517) 241-9317**

**Building Permit No. B027824  
Henry Ford Academy/School for Creative Studies  
435/485 W Milwaukee  
Detroit, Michigan  
Wayne County**

**The above named building of Use Group E and Construction Type 1B is approved for use and occupancy.**

**THIS APPROVAL IS GRANTED UNDER THE AUTHORITY OF SECTIONS 13 OF ACT 230 OF THE PUBLIC ACTS OF 1972, AS AMENDED, BEING §125.1513 OF THE MICHIGAN COMPILED LAWS, AND, IN ACCORDANCE WITH SECTION 110.0 OF THE STATE BUILDING CODE. THIS SHALL SUPERSEDE AND VOID ANY PREVIOUS APPROVAL OF USE AND OCCUPANCY.**



**Larry Lehman, Chief  
Charles E. Curtis, Assistant Chief  
Building Division**

**March 24, 2010**



# **CERTIFICATE OF USE AND OCCUPANCY**

## **TEMPORARY**

**Michigan Department of Labor and Economic Growth  
Bureau of Construction Codes/Building Division  
P. O. Box 30254  
Lansing, MI 48909  
(517) 241-9317**

**Building Permit No. B027824  
Henry Ford Academy/School for Creative Studies  
435/485 W Milwaukee  
Detroit, Michigan  
Wayne County**

**The above named building of Use Group E and Construction Type 1B is approved for use and occupancy for a period of three (3) months with an expiration date of April 6, 2010.**

**Conditions:**

**THIS APPROVAL IS GRANTED UNDER THE AUTHORITY OF SECTIONS 13 OF ACT 230 OF THE PUBLIC ACTS OF 1972, AS AMENDED, BEING §125.1513 OF THE MICHIGAN COMPILED LAWS, AND, IN ACCORDANCE WITH SECTION 110.0 OF THE STATE BUILDING CODE. THIS SHALL SUPERSEDE AND VOID ANY PREVIOUS APPROVAL OF USE AND OCCUPANCY.**

  
**Larry Lehman, Chief  
Charles E. Curtis, Assistant Chief  
Building Division**

**January 6, 2010**

# **CERTIFICATE OF USE AND OCCUPANCY**

## **TEMPORARY**

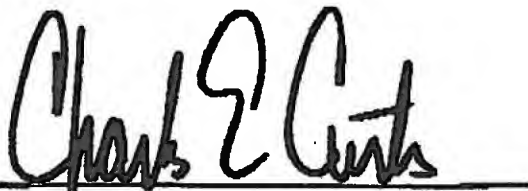
**Michigan Department of Energy, Labor and Economic Growth  
Bureau of Construction Codes /Building Division  
P. O. Box 30254  
Lansing, MI 48909  
(517) 241-9317**

**Permit No. B027824  
Henry Ford Academy  
School For Creative Studies  
435/485 W Milwaukee  
Detroit, Michigan  
Wayne County**

**Per your October 16, 2009 letter, the above named building of Use Group E and Construction Type 1B is approved for use and occupancy for a period of three (3) months with an expiration date of January 19, 2010.**

**Conditions: FLOORS 1 THRU 4 (COMPLETED AREAS ONLY)**

**THIS APPROVAL IS GRANTED UNDER THE AUTHORITY OF SECTIONS 13 OF ACT 230 OF THE PUBLIC ACTS OF 1972, AS AMENDED, BEING §125.1513 OF THE MICHIGAN COMPILED LAWS, AND, IN ACCORDANCE WITH SECTION 110.0 OF THE STATE BUILDING CODE. THIS SHALL SUPERSEDE AND VOID ANY PREVIOUS APPROVAL OF USE AND OCCUPANCY.**



**Larry Lehman, Chief  
Charles E. Curtis, Assistant Chief  
Building Division**

**October 19, 2009**

# **CERTIFICATE OF USE AND OCCUPANCY**

## **TEMPORARY**

**Michigan Department of Energy, Labor and Economic Growth  
Bureau of Construction Codes /Building Division**


**P. O. Box 30254  
Lansing, MI 48909  
(517) 241-9317**

**Permit No. B027824  
Henry Ford Academy  
School For Creative Studies  
435/485 W Milwaukee  
Detroit, Michigan  
Wayne County**

**Per your September 14, 2009 letter, the above named building of Use Group E and Construction Type 1B is approved for use and occupancy for a period of three (3) months with an expiration date of December 30, 2009**

**Conditions: THIRD & FOURTH Floor (COMPLETED AREAS ONLY)**

**THIS APPROVAL IS GRANTED UNDER THE AUTHORITY OF SECTIONS 13 OF ACT 230 OF THE PUBLIC ACTS OF 1972, AS AMENDED, BEING §125.1513 OF THE MICHIGAN COMPILED LAWS, AND, IN ACCORDANCE WITH SECTION 110.0 OF THE STATE BUILDING CODE. THIS SHALL SUPERSEDE AND VOID ANY PREVIOUS APPROVAL OF USE AND OCCUPANCY.**



**Larry Lehman, Chief  
Charles E. Curtis, Assistant Chief  
Building Division**

**September 30, 2009**

# **CERTIFICATE OF USE AND OCCUPANCY**

## **TEMPORARY**

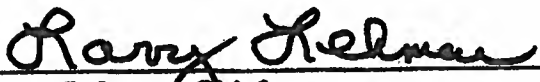
**Michigan Department of Energy, Labor and Economic Growth  
Bureau of Construction Codes /Building Division  
P. O. Box 30254  
Lansing, MI 48909  
(517) 241-9317**

**Permit No. B027824  
Henry Ford Academy  
School For Creative Studies  
435/485 W Milwaukee  
Detroit, Michigan  
Wayne County**

**Per your August 18, 2009 letter, the above named building of Use Group E and Construction Type 1B is approved for use and occupancy for a period of two (2) months with an expiration date of October 19, 2009**

**Conditions: First and Second Floor ONLY**

**THIS APPROVAL IS GRANTED UNDER THE AUTHORITY OF SECTIONS 13 OF ACT 230 OF THE PUBLIC ACTS OF 1972, AS AMENDED, BEING §125.1513 OF THE MICHIGAN COMPILED LAWS, AND, IN ACCORDANCE WITH SECTION 110.0 OF THE STATE BUILDING CODE. THIS SHALL SUPERSEDE AND VOID ANY PREVIOUS APPROVAL OF USE AND OCCUPANCY.**

  
**Larry Lehman, Chief  
Charles E. Curtis, Assistant Chief  
Building Division**

**August 20, 2009 (Revised)**

# **CERTIFICATE OF USE AND OCCUPANCY**

## **TEMPORARY**

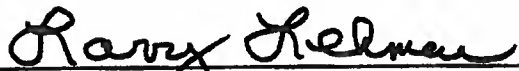
**Michigan Department of Energy, Labor and Economic Growth  
Bureau of Construction Codes /Building Division  
P. O. Box 30254  
Lansing, MI 48909  
(517) 241-9317**

**Permit No. B027824  
Henry Ford Academy  
School For Creative Studies  
435/485 W Milwaukee  
Detroit, Michigan  
Wayne County**

**Per your August 18, 2009 letter, the above named building of Use Group E and Construction Type 1B is approved for use and occupancy for a period of two (2) months with an expiration date of October 19, 2009**

**Conditions: First and Second Floor ONLY**

**THIS APPROVAL IS GRANTED UNDER THE AUTHORITY OF SECTIONS 13 OF ACT 230 OF THE PUBLIC ACTS OF 1972, AS AMENDED, BEING §125.1513 OF THE MICHIGAN COMPILED LAWS, AND, IN ACCORDANCE WITH SECTION 110.0 OF THE STATE BUILDING CODE. THIS SHALL SUPERSEDE AND VOID ANY PREVIOUS APPROVAL OF USE AND OCCUPANCY.**



**Larry Lehman, Chief  
Charles E. Curtis, Assistant Chief  
Building Division**

**August 20, 2009 (Revised)**

## PARKING LICENSE AGREEMENT

THIS PARKING LICENSE AGREEMENT (this "Agreement"), made this 30th day of September, 2008, by and between the COLLEGE FOR CREATIVE STUDIES, a Michigan non-profit corporation, having an office at 201 E. Kirby, Detroit, Michigan 48202 (hereinafter called "Licensor"), and TEF-SIX, LLC, a Michigan limited liability company, having an office at c/o P.O. Box 6349, Plymouth, Michigan 48170, Attention: John G. Cleary ("Licensee").

### RECITALS:

A. Licensor is the owner of a parcel of land described in **Exhibit A** attached hereto (the "Baltimore Parcel") and a parcel of land described in **Exhibit B** attached hereto (the "Woodward Parcel").

B. Licensor intends to construct a parking deck containing approximately 400 parking spaces, subject to modification by Licensor (the "Parking Deck"), and other site improvements on the Baltimore Parcel.

C. Licensor intends to install a surface parking lot containing approximately 179 parking spaces, subject to modification by Licensor (the "Surface Parking Lot"), and other site improvements on the Woodward Parcel (the Baltimore Parcel, Woodward Parcel, Parking Deck and all other improvements now or hereafter located in or on the Baltimore Parcel or Woodward Parcel are collectively referred to as the "Parking Facilities").

D. Simultaneously herewith, Argonaut Building Master Tenant LLC ("Argonaut"), as Sublandlord, and Licensee, as Subtenant, entered into a Sublease of certain space located within the building commonly known as the Argonaut Building, Detroit, Michigan (the "Sublease").

E. Licensee is desirous of obtaining spaces for vehicular parking in the Parking Deck and Surface Parking Lot, the same to be used for the parking of passenger motor vehicles of Licensee's employees.

F. Licensee is a tax exempt organization.

Licensor is willing to grant parking spaces in the Parking Deck and the Surface Parking Lot upon and subject to the terms, covenants and conditions hereinafter set forth.

### AGREEMENT:

In consideration of the premises and other good and valuable consideration, Licensor and Licensee hereby agree as follows:

1. **Parking Allotment.** During the term of this Agreement, if Licensee is not in default of this Agreement or the Sublease, Licensee may, subject to availability, use no more than the Parking Deck Allotment in order to park only insured, registered, passenger, motor vehicles (each, a "Vehicle") in the Parking Deck and no more than the Surface Parking Lot Allotment in order to park Vehicles in the Surface Parking Lot. "Parking Deck Allotment" means 95 permits for unreserved parking spaces in the Parking Deck, and "Surface Parking Lot Allotment" means 42 permits for unreserved parking spaces in the Surface Parking Lot (the Parking Deck Allotment and Surface Parking Lot Allotment are collectively referred to herein as the "Parking Allotment"). Licensee's employees shall also have a license to use the common areas in the Parking Facilities for ingress and egress to and from the Parking Facilities.

2. **Parking Cards.** Vehicular ingress and egress to and from the Parking Facilities shall be by parking access cards or such other system as Licensor may decide upon from time to time. If parking access cards are issued, Licensee will pay a non-refundable fee of \$10 for each new or replaced parking access card. Parking access cards not working properly will be replaced at no charge. Parking access cards will not be activated until the Licensee or Patron provides Licensor with each Vehicle's license plate number and description.

3. **Licensee Fees.** Licensee's obligation to pay Expenses under this Section 3 is referred to in this Agreement as "Licensee Fees."

(a) **Expenses.** For each calendar year or partial calendar year falling within the Term, Licensee shall pay, in the manner described below, Licensee's Share (as defined below) of the Expenses for such calendar year or partial calendar year. "Licensee's Share" shall mean the percentage obtained by dividing 137, the sum of the Parking Deck Allotment and Surface Parking Lot Allotment, by the aggregate number of parking spaces located in the Parking Deck and Surface Parking Lot, as modified from time to time. "Expenses" mean Taxes (as defined below) and the total costs incurred by Licensor to operate, manage, administer, equip, secure, protect, repair, replace, refurbish, improve, clean, maintain, decorate and inspect the Parking Facilities, regardless of whether or not any such costs constitute capital expenditures.

(1) Expenses include but are not limited to:

- (A) Costs of utilities;
- (B) Except for a complete replacement of the Parking Deck, replacements, repairs and maintenance of the Parking Facilities;
- (C) Insurance maintained with respect to the Parking Facilities (including deductibles paid);
- (D) Wages, salaries and benefits of personnel (i) to the extent they render services to the Parking Facilities, as reasonably determined by Sublandlord, and (ii) are not above the position of Director of Facilities;

- (E) Costs incurred to comply with insurance requirements or laws; and
  - (F) The fees and costs payable to a third party property manager.
- (2) Expenses exclude:
- (A) Mortgage payments (principal and interest), principal or interest payments on loans or other debts;
  - (B) Costs reimbursed by insurance proceeds or licensees of the Parking Facilities (other than as Licensee Fees);
  - (C) Depreciation;
  - (D) Costs incurred in connection with any litigation involving Licensor, including without limitation collection costs and legal fees paid in disputes with licensees;
  - (E) Collection costs and legal fees paid in disputes with licensees of the Parking Facilities;
  - (F) Costs to maintain and operate the entity that is Licensor (as opposed to operation and maintenance of the Parking Facilities); and
  - (G) Costs of (i) the complete replacement of the Park Deck or (ii) any addition to the Parking Facilities that does not constitute a replacement (e.g., the addition of another story to the Parking Deck).

"Taxes" mean (1) real and personal property taxes and assessments (including ad valorem and special assessments) levied on the Parking Facilities and Licensor's personal property used in connection with the Parking Facilities; (2) taxes on rents or other income derived from the Parking Facilities; (3) capital and place-of-business taxes; (4) taxes, assessments or fees in lieu of the taxes described in (1-3); and (5) the reasonable costs incurred to reduce the taxes described in (1-4). Taxes exclude net income taxes.

(b) Estimates. Licensor will reasonably estimate Licensee Fees each calendar year that Licensee Fees may be payable. Licensee will pay the estimated Licensee Fees in advance, in equal monthly installments, by the first day of each month. Licensor may reasonably revise its estimate during a calendar year and Licensee will pay the monthly installments based on the revised estimate, commencing 30 days following the date of such revision. In addition, if Licensor incurs an Expense not anticipated by Licensor, Licensor may invoice Licensee for Licensee's share of such Expense (a "Special Assessment"), and Licensee shall pay Licensee's share of such Special Assessment within thirty (30) days after Licensee's receipt of such invoice.



The aggregate estimates of Licensee Fees and all Special Assessments payable by Licensee in a calendar year are the "Estimated Licensee Fees."

(c) Settlement. As soon as practical after the end of each calendar year that Licensee Fees are payable, Licensors will give Licensee a statement of the actual Licensee Fees for the calendar year. The statement of Licensee Fees is conclusive, binds Licensee, and Licensee waives all rights to contest the statement, except for items of Licensee Fees to which Licensee objects by notice to Licensors given within ninety (90) days after receipt of Licensors' statement; however, Licensee's objection will not relieve Licensee from its obligation to pay Licensee Fees pending resolution of any objection. If the Licensee Fees exceeds the Estimated Licensee Fees for the calendar year, Licensee shall pay the difference to Licensors in a lump sum as License Fees within thirty (30) days after receipt of Licensors' statement of Licensee Fees. If the Estimated Licensee Fees paid by Licensee exceeds the Licensee Fees for the calendar year, then Licensors shall credit the overpayment against License Fees next due. However, if the Term ends during a calendar year, Licensors may, in Licensors' sole discretion, elect to either: (1) forego the settlement of Licensee Fees for the calendar year that is otherwise required and accept the Licensee's payment of Estimated Licensee Fees for such calendar year in satisfaction of Licensee's obligations to pay Licensee Fees for the final calendar year, or (2) have Licensors' and Licensee's obligations under this subsection (c) survive the end of the Term.

(d) Terms of Payment. Unless otherwise provided in this Agreement, Licensee shall pay License Fees without notice, demand, deduction, abatement or setoff, in lawful U.S. currency, at Licensors' Billing Address. Licensors will send invoices payable by Licensee to Licensee's Billing Address; however, neither Licensors' failure to send an invoice nor Licensee's failure to receive an invoice for installments of estimated Licensee Fees will relieve Licensee of its obligation to pay installments of estimated Licensee Fees. Each partial payment by Licensee shall be deemed a payment on account. No endorsement or statement on any check or any accompanying letter shall constitute an accord and satisfaction, affect Licensors' right to collect the full amount due, or require Licensors to apply any payment to other than License Fees earliest due. No payment by Licensee to Licensors will be deemed to extend the Term or render any notice, pending suit or judgment ineffective. By notice to the other, each party may change its Billing Address. Any payment made by Licensee to a lockbox maintained by Licensors for receipt of payment of License Fees shall not be deemed to have been accepted by Licensors provided such payment is returned to Licensee within ten (10) days after Licensors receives notice that the payment has been received into the lockbox.

(e) Late Payment. If Licensors does not receive all or part of any License Fees within five (5) business days of the date when due, then Licensee shall pay Licensors a "Late Charge" of 5% of the overdue amount. Licensee agrees that the Late Charge is not a penalty, and will compensate Licensors for costs not contemplated under this Agreement that are impracticable or extremely difficult to fix. Licensors' acceptance of a Late Charge does not waive Licensee's default.

4. Term. "Term" means the period that begins on the License Commencement Date and ends on the License Expiration Date, subject to renewal or earlier termination as may be further provided in this Agreement. The "License Commencement Date" means the date that

is the later of (a) the Commencement Date (as defined in the Sublease) and (b), with respect to the Parking Deck, the date that the Parking Deck is Substantially Complete (as defined below), and with respect to the Surface Parking Lot, the date that the Surface Parking Lot is Substantially Complete. The "License Expiration Date" means the earlier of the Expiration Date (as defined in the Sublease) and the date Licensee or any permitted assignee or sublicense under this Agreement is not tax exempt under state and/or federal law. "Substantially Complete" with respect to either the Parking Deck or Surface Parking Lot means the date when the Parking Deck or Surface Parking Lot, whichever is applicable, has been completed to the extent that only construction details, which would not prevent Patrons from parking Vehicles in the parking spaces located within the Parking Deck or Surface Parking Lot, whichever is applicable, require completion or correction. Notwithstanding anything to the contrary contained in this Agreement, in the event the Sublease terminates prior to the expiration or earlier termination of this Agreement (including but not limited to a termination of the Sublease pursuant to Section 3.4 thereof), then this Agreement shall terminate simultaneously with the termination of the Sublease without any liability of Licensor to Licensee.

Licensor shall notify Licensee of the License Commencement Date using a Notice of Agreement Term (the "Notice") in the form attached to this Agreement as **Exhibit C**. Licensee shall execute and deliver to Licensor the Notice within ten (10) business days after its receipt, but Licensee's failure to do so will not reduce Licensee's obligations or Licensor's rights under this Agreement.

5. **Assignment.** Except as provided below, neither Licensee nor any Patron may assign or sublease its license to park or its Parking Allotment. Notwithstanding the foregoing, Licensee may assign this Agreement to an assignee of the Sublease pursuant to an assignment permitted under Article 13 of the Sublease, and Licensee may sublicense all or a portion of its license to park and Parking Allotment to a person or entity that subleases all or any portion of the Premises (as defined in the Sublease) from Licensee pursuant to a sublease permitted under Article 13 of the Sublease, provided that any such assignee or sublicensee is tax exempt under federal and state law.

6. **Use.** Licensee's Parking Allotment may be used only by the employees of Licensee or an assignee or sublicensee permitted under Section 5 hereof (each, a "Patron"). Patrons will be granted access to the Parking Facilities only upon signing Licensor's standard parking license with Licensor. Storage of Vehicles overnight is prohibited.

7. **Disclaimer.** Each Patron only has a license to park in the Parking Facilities at the Patron's sole risk. No bailment is created. Licensor is not obligated to secure or insure Vehicles or their contents, and is not be responsible for any fire, theft, damage or loss to any Vehicle or its contents. Attendants are present solely to assist Patrons and are not required to verify ownership of Vehicles exiting the Parking Facilities. Licensor does not represent, guaranty or warrant that any communication or security systems, devices or procedures in the Parking Facilities will be effective to prevent any loss, damage or injury to Licensee, Patrons or their guests. Licensor may discontinue or modify any of these systems, devices or procedures at any time without any liability to Licensee, Patrons, or their guests.

8. **Repairs, Improvements, Damage or Condemnation.** Licensor may modify, renovate or improve the Parking Facilities as Licensor deems appropriate. If any Patron is unable to use the Parking Facilities because of major repairs or improvements, damage or condemnation to the Parking Facilities or Project, Licensor will not be in default of this Agreement. Except as otherwise provided in Sections 11 and 12 hereof, during the Term, Licensor shall repair, maintain and replace, if necessary, the Parking Facilities and otherwise keep the Parking Facilities in good order and condition according to the standards prevailing for comparable facilities in the area in which the Parking Facilities are located.

9. **Rules and Regulations.** This license is conditioned upon each Patron's compliance with the following Parking Facilities rules and regulations ("Parking Rules and Regulations") :

- (a) Patron may be required to display a sticker, tag or other identification;
- (b) Vehicle must be parked entirely within the painted stall lines. Parking is prohibited in: areas not striped for parking; aisles; areas where "No Parking" signs are posted; cross hatched areas; and in such other areas as may be designated by Licensor including areas designated as "Visitor Parking" or reserved spaces not licensed under this Agreement;
- (c) All directional signs and arrows must be observed;
- (d) The speed limit shall be 5 miles per hour, unless posted otherwise;
- (e) Unless attended parking is required by Licensor, Patrons must park and lock their Vehicle;
- (f) Spaces designated for compact Vehicle shall not be used by full-sized Vehicle;
- (g) Parking Facilities' managers and attendants are not authorized to make or allow any exceptions to Parking Rules and Regulations; and
- (h) Parking Rules and Regulations may be modified by Licensor with notice to Licensee.

Licensor may refuse to permit any Patron, who violates the Parking Rules and Regulations, to park in the Parking Facilities and may remove the Patron's Vehicle at the Patron's and Licensee's expense.

10. **Compliance with Laws.** The cost of Licensor's compliance with all orders or directives of Licensor's insurers or governing authorities or laws, statutes, codes, ordinances, administrative rules or regulations concerning the Parking Facilities will be included in Expenses.

**11. Damage or Destruction.**

(a) **Damage and Repair.** If all or any part of the Parking Facilities is damaged by fire or other casualty, then the parties will proceed as follows:

- (i) **Licensor's Estimates.** Licensor will assess the damage to the Parking Facilities and notify Licensee of Licensor's reasonable estimate of the time required to substantially complete repairs and restoration of the Parking Facilities ("Repair Estimate"). Within 30 days after the later of the casualty, issuance of the Repair Estimate, or receipt of any denial of coverage or reservation of rights from Licensor's insurer, or receipt of notice from the holder of any Encumbrance (as defined in Section 13(b)) that all or any portion of the insurance proceeds will be used to retire the debt secured by such Encumbrance, Licensor may terminate this Agreement by written notice to Licensee if:
  - (A) The Repair Estimate exceeds 270 days; or
  - (B) The damage or destruction occurs in the last 12 Months of the Term;
  - (C) The repair and restoration is not fully covered by insurance maintained or required to be maintained by Sublandlord (subject only to those deductibles or retentions Licensor elected to maintain) or Licensor's insured denies coverage or reserves its rights on coverage; or
  - (D) The holder of any Encumbrance requires that all or any portion of the insurance proceeds be used to retire the debt secured by such Encumbrance or the damage is caused by a casualty that is not covered by insurance maintained by Licensor.
- (ii) **Repairs.** If Licensor does not terminate this Agreement under (i), then this Agreement shall remain in full force and effect and Licensor will repair and restore the Parking Facilities to the condition existing prior to such damage, except for modifications required by law. Licensor will perform such work with reasonable promptness, subject to delay for loss adjustment, delay caused by Licensee and Force Majeure.

(b) **License Fees.** If as a result of the damage or destruction under Section 11(a), the number of parking spaces that Licensee is otherwise entitled to use at such time under this Agreement (the "Permitted Spaces") is not available for use by Licensee (the amount by which the number of Permitted Spaces exceeds such available spaces is referred to herein as the

"Unavailable Spaces"), License Fees shall, to the extent Licensor receives the proceeds of loss of rental income insurance, be abated in the proportion that the number of Unavailable Spaces bears to the number of Permitted Spaces from the 4th consecutive business day after the occurrence of such damage or destruction until the Unavailable Spaces again become available. Licensee's sole remedy against Licensor for damage or destruction of any part of the Parking Facilities is abatement of License Fees under this Section 11(b), and Licensor will not be liable to Licensee for any other amount, including consequential damages.

12. **Taking.** "Taking" means acquiring of all or part of the Parking Facilities for any public or quasi-public use by exercise of a right of eminent domain or under any other law, or any sale in lieu thereof. If a Taking occurs:

- (a) Total Taking. If a Taking of substantially all of the parking spaces in the Parking Facilities for substantially all of the remaining Term occurs, then the Agreement terminates on the date of the Taking.
- (b) Partial Taking. If a Taking does not cause the Agreement to be terminated under (a), then Licensor will restore (and alter, as necessary) the Parking Facilities, unless the Agreement is terminated by either Licensor or Licensee under the following circumstances:
  - (1) Licensor may terminate the Agreement upon 60 days prior written notice to Licensee if Licensor reasonably determines that it is uneconomical to restore or alter the Parking Facilities.
  - (2) Licensee may terminate the Agreement upon 60 days prior written notice to Licensor if more than 50% of the total Parking Spaces in the Parking Deck and Surface Parking Lot are taken pursuant to such Taking for the remainder of the Term.

Licensor is entitled to the entire award for any claim for a taking of any interest in this Agreement or the Parking Facilities, without deduction or offset for Licensee's interest.

13. **Licensor Transfers.**

(a) Licensor's Transfer. Licensor's right to transfer any interest in the Parking Facilities or this Agreement is not limited by this Agreement. Upon any such transfer, Licensee will attorn to Licensor's transferee and Licensor will be released from liability under this Agreement, except for any obligations under this Agreement accruing before the transfer that are not assumed by the transferee.

(b) Subordination. This Agreement is, and will at all times be, subject and subordinate to each ground lease, mortgage, deed to secure debt or deed of trust now or later encumbering the Parking Facilities or any portion thereof, including each renewal, modification, supplement, amendment, consolidation or replacement thereof (each, an "Encumbrance"). At Licensor's request, Licensee will, without charge, promptly execute, acknowledge and deliver to

Licensor (or, at Licensor's request, the Encumbrance holder) any instrument reasonably necessary to evidence this subordination. Notwithstanding the foregoing, each Encumbrance holder may unilaterally elect to subordinate its Encumbrance to this Agreement.

(c) Attornment. Licensee will automatically attorn to any transferee of Licensor's interest in the Parking Facilities that succeeds Licensor by reason of a termination, foreclosure or enforcement proceeding of an Encumbrance, or by delivery of a deed in lieu of any foreclosure or proceeding (a "Successor Licensor"). In this event, the Agreement will continue in full force and effect as a direct license between the Successor Licensor and Licensee on all of the terms of this Agreement, except that the Successor Licensor shall not be:

- (1) Liable for any obligation of Licensor under this Agreement, or be subject to any counterclaim, defense or offset accruing before Successor Licensor succeeds to Licensor's interest;
- (2) Bound by any modification or amendment of this Agreement made without Successor Licensor's consent;
- (3) Bound by any prepayment of more than one Month's License Fees;  
or
- (4) Obligated to perform any improvements to the Parking Facilities (or provide an allowance therefor). Upon Successor Licensor's request, Licensee will, without charge, promptly execute, acknowledge and deliver to Successor Licensor any instrument reasonably necessary or required to evidence such attornment.

(d) Estoppel Certificate. Within 10 days after receipt of Licensor's written request, Licensee (and each guarantor and transferee of an interest in the Agreement) will execute, acknowledge and deliver to Licensor a certificate upon which Licensor and each existing or prospective Encumbrance holder may rely confirming the following (or any exceptions to the following):

- (1) The License Commencement Date and License Expiration Date;
- (2) The documents that constitute the Agreement, and that the Agreement is unmodified and in full force and effect;
- (3) The date through which License Fees have been paid;
- (4) That neither Licensor nor Licensee is in default of this Agreement;  
and
- (5) Such other matters concerning this Agreement that Licensor may reasonably require.

**14. Default and Remedies.**

(a) Licensee's Default. Licensee is in default ("Default") of this Agreement if any of the following occur:

- (i) Licensee fails to pay Licensee Fees when due, and the failure continues for 10 days after notice to Licensee of the failure.
- (ii) Licensee fails to perform a non-monetary obligation under this Agreement and the failure continues for 20 days after notice to Licensee of the failure, except that if Licensee begins performing this obligation within 20 days after notice to Licensee of this failure, but it will reasonably take more than 20 days to complete performing the obligation, then Licensee will have a reasonable amount of additional time to complete performing the obligation so long as Licensee diligently pursues the performance of such obligation to completion.
- (iii) Assigns this Agreement or sublicenses its license to park or its Parking Allotment in violation of this Agreement.
- (iv) Licensee fails to discharge any attachment or levy on Licensee's interest in this Agreement within 15 days after the attachment or levy encumbers this Agreement.
- (v) Licensee fails to cause any of the following proceedings to be vacated or dismissed within 60 days after they are commenced: (1) the appointment of a receiver or trustee of the assets of Licensee or any guarantor of this Agreement, (2) the voluntary or involuntary bankruptcy of Licensee or any guarantor of this Agreement, or (3) any assignment for the benefit of creditors of the assets of Licensee or any guarantor of this Agreement.
- (vi) Licensee is named on the list of Specially Designated Nationals and Blocked Persons maintained by the Office of Foreign Assets Control of the United States Department of the Treasury or any such similar list maintained by the state or federal government.
- (vii) A Default under the Sublease occurs.

(b) Remedies. If a Default occurs, Licensor shall have the rights and remedies set forth in this subsection (b) which shall be distinct, separate and cumulative and shall not operate to exclude or deprive Licensor of any other right or remedy allowed it by law or at equity.

- (i) Licensor may terminate this Agreement by giving notice to Licensee of Licensor's election to do so, in which event the Term of this Agreement shall end, and all right, title and interest of Licensee hereunder shall expire, on the date stated in such notice. Written notice alone shall be proof of any such election by Licensor. No termination of this Agreement shall terminate Licensee's obligations under this Agreement to pay Licensee Fees, which obligation shall survive such termination.
  - (ii) Licensor may enforce the provisions of this Agreement and may enforce and protect the rights of Licensor by a suit or suits in equity or at law for the specific performance of any covenant or agreement contained in this Agreement, or for the enforcement of any other appropriate legal or equitable remedy, including recovery of all moneys due or to become due from Licensee under any of the provisions of this Agreement.
  - (iii) Licensor may, but shall not be obligated to, cure Licensee's Default by making any payment or performing such other act to the extent Licensor may deem desirable. Any such cure by Licensor shall be without notice and shall not waive or release Licensee from any obligation under this Agreement. Licensee covenants and agrees to pay Licensor, upon demand, all advances, costs and expenses incurred by Licensor in connection with such cure, including reasonable attorney's fees, together with interest at the Default Rate (as defined below), from the date such are incurred by Licensor to the date of payment to Licensor.
- (c) If Licensor terminates this Agreement pursuant to subparagraph (b):
- (i) Licensor shall be entitled to recover any and all License Fees due and unpaid as of the date of termination. Licensee shall immediately pay to Licensor all such License Fees.
  - (ii) (A) Licensor shall have the right from time to time, recover from Licensee, and Licensee shall remain liable for, all License Fees and any other sums accruing as they become due under this Agreement through the remainder of the stated Term.
  - (B) Any License Fees received by Licensor from relicensing the Parking Deck Allotment or Surface Parking Allotment shall be deemed to reduce Licensee's indebtedness to Licensor as follows: (x) first, to reduce Licensee's obligation to reimburse Licensor for Costs of Re-Licensing, then (y) to reduce Licensee's obligation to Licensor for



Enforcement Costs, and then (z) to reduce Licensee's obligation for the payment of Licensee Fees reserved in this Agreement for the remainder of the stated Term of this Agreement. In no event shall Licensee be entitled to a reduction (of its indebtedness to Licensor) in an amount in excess of the aggregate sum of the License Fees which would have been payable by Licensee for the remainder of the stated Term of this Agreement, if no Default had occurred.

(C) As it becomes due, and without notice or demand, Licensee shall pay to Licensor an amount equal to the License Fees which would have been payable by Licensee for the remainder of the stated Term of this Agreement, less any applicable reductions pursuant to the immediately preceding sentence.

(D) Licensee shall, upon demand, reimburse Licensor, with interest at the Default Rate from the date incurred through the date of payment to Licensor, the Enforcement Costs and Costs of Re-Licensing.

(iii) Licensor shall not be required to mitigate any of its damages hereunder. If any law shall validly limit the amount of any damages provided for herein to an amount which is less than the amount agreed to herein, Licensor shall be entitled to the maximum amount available under such law.

(d) Definitions.

(i) "Enforcement Costs" shall be all sums, costs, expenses and damages (in addition to Costs of Re-Licensing and including reasonable attorneys' fees) which are incurred by Licensor in enforcing the Licensee's obligations under this Agreement or by reason of Licensee's Default, including without limitation, those arising out of any action brought by Licensor against Licensee to interpret any provision of this Agreement or in connection with a bankruptcy or an assignment for the benefit of creditors.

(ii) "Costs of Relicensing" shall mean all costs and expenses incurred by Licensor for any brokerage commissions, advertising costs, attorneys' fees, take-over lease obligations, costs of collecting License Fees or other sums from Replacement Licensees and other costs incurred by Licensor in relicensing the Parking Deck Allotment or Surface Parking Allotment or any portion thereof to Replacement Licensees.

(iii) "Replacement Licensees" shall mean any persons or entities to whom Licensor re-licenses the Parking Deck Allotment or Surface Parking Allotment or any portion thereof.

(iv) Reasonable attorneys' fees shall include the value of services provided by counsel employed by Licensor or its Affiliates in the amount that Licensor would have reasonably incurred if the services had been performed by unaffiliated counsel.

(e) Interest. If Licensee at any time fails to make any payment of License Fees or of any amounts owed under this Agreement, Licensor may recover interest on such amounts at the rate per annum equal to the Prime Rate plus 5% per annum, but in no event in excess of the maximum interest rate permitted by law ("Default Rate"), from the date each amount is due until paid by Licensee.

(f) Waivers. Licensor and Licensee expressly waive any right to trial by jury with respect to any proceeding pertaining to this Agreement. No waiver by Licensor of any Default of Licensee shall be implied to affect, and no express waiver shall affect, any Default other than the Default specified in such waiver and that only for the time and to the extent stated.

(g) Force Majeure. "Force Majeure" means any cause or event beyond the reasonable control of a party to this Agreement, including any act of God, government act or restriction, labor disturbance, general shortage of materials or supplies, riot, insurrection, or act of war or terrorism. Force Majeure excuses a party from performing any non-monetary obligation under this Agreement for a commercially reasonable time.

(h) Licensor's Default and Remedies.

(i) Licensor will be in "Default" of this Agreement if Licensor fails to perform any obligation of Licensor under this Agreement and this failure continues for 30 days after Licensee notifies Licensor of such failure, or such longer period of time as is reasonable if more than 30 days is reasonably required to perform this obligation if performance commences within this 30-day period and is diligently prosecuted to completion.

(ii) If Licensor is in Default, then Licensee may exercise any remedy available under law that is not waived or limited under this Agreement, subject to the following:

(A) Licensee may not terminate this Agreement due to any Licensor Default.

(B) Licensor's liability under this Agreement is limited to Licensor's interest in the Parking Facilities.

(C) No liability under this Agreement is assumed by Licensor's Affiliates.

"Affiliates" means with respect to a party (i) that party's partners, co-members and joint venturers, (ii) each corporation or other entity that is a parent or subsidiary of that party, (iii) each corporation or other entity that is controlled by or under common control of a parent of such party, and (iv) the directors, officers, employees and agents of that party and each person or entity described in (i-iii) above.

# 15. **Miscellaneous.**

(a) **Notice.** Notice to Licensor must be given to Licensor's Notice Addresses as set forth below. Notice to Licensee must be given to Licensee's Notice Addresses as set forth below. By notice to the other, either party may change its Notice Address. Each notice must be in writing and will be validly given if either: (1) the notice is personally delivered and receipt is acknowledged in writing; or (2) the notice is delivered by a nationally recognized overnight courier service (e.g., Federal Express or Airborne Express) and receipt is acknowledged in writing. If the party to receive notice fails to either accept delivery or acknowledge its receipt in writing, then notice may be validly given by mailing the notice first-class, certified or registered mail, postage prepaid, and the notice will be deemed received by the party 2 business days after the deposit of the notice in the U.S. Mail.

Notice Address:

For each party, the following address:

To Licensor	To Licensee
College for Creative Studies 201 E. Kirby Detroit, Michigan 48292-4034 Attn: Anne Beck, Vice President for Administration and Finance	Before the License Commencement Date:  Thompson Educational Foundation c/o P.O. Box 6349 Plymouth, Michigan 48170 Attention: John G. Cleary
with a copy to:  College for Creative Studies 201 E. Kirby Detroit, Michigan 48292-4034 Attn: Geoffrey Sleeman, Director of Facilities	After the License Commencement Date:  Thompson Educational Foundation c/o P.O. Box 6349 Plymouth, Michigan 48170 Attention: John G. Cleary

Billing Address:

For each party, the following address:

For Licensor	For Licensee
College for Creative Studies 201 E. Kirby Detroit, Michigan 48292-4034 Attn: Anne Beck, Vice President, Administration and Finance	Thompson Educational Foundation c/o P.O. Box 6349 Plymouth, Michigan 48170 Attention: John G. Cleary

(b) Entire Agreement. This Agreement is deemed integrated and contains all of each party's representations, waivers and obligations. The parties may only modify or amend this Agreement in a writing that is fully executed and delivered by each party.

(c) Successors. Unless provided to the contrary elsewhere in this Agreement, this Agreement binds and inures to the benefit of each party's heirs, successors and permitted assignees.

(d) No Waiver. A party's waiver of a breach of this Agreement will not be considered a waiver of any other breach. No custom or practice that develops between the parties will prevent either party from requiring strict performance of the terms of this Agreement. No Agreement provision or act of a party creates any relationship between the parties other than that of Licensor and Licensee.

(e) Independent Covenants. The covenants of this Agreement are independent. A court's declaration that any part of this Agreement is invalid, void or illegal will not impair or invalidate the remaining parts of this Agreement, which will remain in full force and effect.

(f) Captions. The use of captions, headings, boldface, italics or underlining is for convenience only, and will not affect the interpretation of this Agreement.

(g) Authority.

- (i) Individuals signing this Agreement on behalf of Licensee represent and warrant that they are authorized to bind Licensee to this Agreement, and that Licensee is qualified to do business in the State of Michigan. If required by Licensor, Licensee will, at Licensee's cost, provide Licensor with a corporate resolution or other documentation acceptable to Licensor proving the authority of each individual signatory to bind Licensee to this Agreement.
- (ii) Licensee represents and warrants to Licensor that Licensee is not named on the list of Specially Designated Nationals and Blocked Persons maintained by the Office of Foreign Assets Control of the United States Department of the Treasury or any such similar list maintained by the state or federal government.
- (iii) Licensee represents and warrants to Licensor that any individual or entity involved in this transaction on behalf of Licensee is not named on the list of Specially Designated Nationals and Blocked Persons maintained by the Office of Foreign Assets Control of the United States Department of the Treasury or any such similar list maintained by the state or federal government.

(h) Applicable Law. The laws of Michigan govern this Agreement. In any action brought under this Agreement, Licensee submits to the jurisdiction of the courts of the State of Michigan, and to venue in the County of Wayne.

(i) Confidentiality. Licensee will not record this Agreement or a memorandum of this Agreement without Licensor's written consent. Licensee will keep the terms of this Agreement confidential and, unless required by law, may not disclose the terms of this Agreement to anyone other than Licensee's Affiliates to the extent necessary to Licensee's business.

(j) Reasonableness. Licensee's sole remedy for any claim against Licensor that Licensor has unreasonably withheld or unreasonably delayed any consent or approval shall be an action for injunctive or declaratory relief, it being acknowledged and agreed that no such claim may be asserted against Licensor except where Licensor has expressly agreed in this Agreement that it may not unreasonably withhold or delay its consent or approval.

(k) Time. Time is of the essence as to all provisions in this Agreement in which time is a factor.

(l) Exhibits. The exhibits attached to this Agreement are incorporated herein. If any exhibit is inconsistent with the terms of this Agreement, the provisions of the Exhibit will govern. The Exhibits to this Agreement are:

EXHIBIT A Description of Baltimore Parcel

EXHIBIT B Description of Woodward Parcel

EXHIBIT C Notice of License Term

16. **Renewal Option.** Licensee shall have the option to renew this Agreement (the "Renewal Option") for one additional term of ninety (90) years upon the same terms, covenants and conditions as are contained in this Agreement. Licensee must exercise the Renewal Option by giving written notice thereof to Licensor at least twelve (12) months prior to the expiration of the initial term of this Agreement (the "Notice"). The Notice shall be effective only if (a) on the date the Notice is given no Default exists and (b) Licensee exercises its option to renew the Sublease pursuant to the terms thereof.


**[SIGNATURE PAGE FOLLOWS]**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

WITNESSES:

LICENSOR:

COLLEGE FOR CREATIVE STUDIES, a  
Michigan non profit corporation

By: 

Its: Vice President for  
Administration & Finance

LICENSEE:

TEF-SIX, LLC, a Michigan limited liability  
company

By: \_\_\_\_\_

Its: \_\_\_\_\_

[Parking License Agreement – Signature page]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

WITNESSES:

\_\_\_\_\_  
\_\_\_\_\_

LICENSOR:

COLLEGE FOR CREATIVE STUDIES, a  
Michigan non profit corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

LICENSEE:

TEF-SIX, LLC, a Michigan limited liability  
company

Cathy Ebejer  
Cathy Ebejer  
John G. Cleary  
John G. Cleary

By: NA

Its: Manager

## **EXHIBIT A**

### **THE BALTIMORE PARCEL**

Land situated in the City of Detroit, County of Wayne, State of Michigan, described as follows:

LOTS 61 THROUGH 69 INCLUSIVE AND THE EASTERLY 9.00 FEET OF LOT 70, INCLUDING THE VACATED ALLEY (12 FEET WIDE) LYING ADJACENT TO SAID LOTS OF "LEAVITT'S SUBDIVISION OF THAT PART OF FRACL SECN 31, T. 1 S., R. 12 E., BOUNDED BY MILWAUKEE AND WOODWARD AVES GRAND TRUNK RAILROAD AND REAR LINE OF PRIVATE CLAIMS AND WEST LINE OF SAID FRACL SECN 31, ALSO LOTS 8 TO 17 BOTH INCLUSIVE PART OF BLOCK 5 OF HENRY WEBER'S SUBN OF PART OF FRACL SECNS 31 AND 36, T. 1 S., R. 11 AND 12 E. AND PART OF THE BAKER AND FORSYTH FARMS", CITY OF DETROIT, WAYNE COUNTY, MICHIGAN AS RECORDED IN LIBER 9 OF PLATS ON PAGE 17, WAYNE COUNTY RECORDS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWESTERLY CORNER OF BALTIMORE AVENUE (60 FEET WIDE) AND CASS AVENUE (80 FEET WIDE), SAID POINT BEING ALSO THE NORTHEASTERLY CORNER OF LOT 61 OF SAID "LEAVITT'S SUBDIVISION" (L. 9, PLATS, P. 17, W.C.R.); PROCEEDING THENCE FROM SAID POINT OF BEGINNING SOUTH 26 DEGREES 20 MINUTES 20 SECONDS EAST, ALONG THE WESTERLY LINE OF SAID CASS AVENUE, SAID LINE BEING ALSO THE EASTERLY LINE OF SAID LOT 61 AND THE EASTERLY END OF A VACATED ALLEY (12 FEET WIDE), A DISTANCE OF 117.59 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID "LEAVITT'S SUBDIVISION"; THENCE SOUTH 63 DEGREES 28 MINUTES 00 SECONDS WEST, ALONG THE SOUTHERLY LINE OF SAID SUBDIVISION, SAID LINE BEING ALSO THE SOUTHERLY LINE OF A VACATED PORTION OF SAID ALLEY, A DISTANCE OF 290.83 FEET TO A POINT; THENCE NORTH 26 DEGREES 32 MINUTES 00 SECONDS WEST, ACROSS SAID VACATED ALLEY, A DISTANCE OF 12.00 FEET TO THE SOUTHWESTERLY CORNER OF THE EASTERLY 9.00 FEET LOT 70 OF SAID SUBDIVISION; THENCE NORTH 26 DEGREES 20 MINUTES 20 SECONDS WEST, ALONG THE WESTERLY LINE OF THE EASTERLY 9.00 FEET OF SAID LOT 70, A DISTANCE OF 104.15 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID BALTIMORE AVENUE, SAID POINT BEING ALSO THE NORTHWESTERLY CORNER OF THE EASTERLY 9.00 FEET OF SAID LOT 70; THENCE NORTH 63 DEGREES 11 MINUTES 00 SECONDS EAST, ALONG THE SOUTHERLY LINE OF SAID BALTIMORE AVENUE,



SAID LINE BEING ALSO THE NORTHERLY LINE OF THE EASTERLY 9.00 FEET OF SAID LOT 70 AND THE NORTHERLY LINE OF LOTS 69 THROUGH 61 OF SAID SUBDIVISION, A MEASURED DISTANCE OF 290.88 FEET (DESCRIBED 290.66 FEET) TO THE POINT OF BEGINNING. CONTAINING 33,992 SQUARE FEET OR 0.780 ACRE, MORE OR LESS, OF LAND IN AREA.

## EXHIBIT B

### THE WOODWARD PARCEL

Land situated in the City of Detroit, County of Wayne, State of Michigan described as follows:

#### Parcel A:

Lots 1 through 5 inclusive, except the Easterly 20 feet thereof as taken for the widening of Woodward Avenue of "Leavitt's Subdivision of that part of fractional Section 31, Town 1 South, Range 12 East, bounded by Milwaukee and Woodward Avenues, Grand Trunk Railroad and rear line of Private Claims and West line of said fractional Section 31, also Lots 8 to 17 both inclusive, part of Block 5 of Henry Weber's Subdivision of part of fractional Sections 31 and 36, Town 1 South, Range 11 and 12 East and part of the Baker and Forsyth Farms", City of Detroit, Wayne County, Michigan, as recorded in Liber 9 of Plats on Page 17, Wayne County Records and being more particularly described as follows: Beginning at the Southwesterly corner of Milwaukee Avenue (60 feet wide) and Woodward Avenue (120 feet wide, as widened), said point being distant South 63 degrees 11 minutes 00 seconds West, 20.00 feet as measured along the North line of Lot 1 of said "Leavitt's Subdivision", (Liber 9 of Plats, Page 17, Wayne County Records), from the Northeast corner of said Lot 1; proceeding thence from said point of beginning South 26 degrees 13 minutes 09 seconds East, along the Westerly line of said Woodward Avenue, as widened, said line being 20.00 feet Westerly of, as measured at right angles to and parallel with the Easterly line of Lots 1 through 5 inclusive of said "Leavitt's Subdivision", a measured distance of 231.10 feet (described 231.00 feet) to the Northwesterly corner of Baltimore Avenue (60 feet wide) and said Woodward Avenue; thence South 63 degrees 12 minutes 10 seconds West, along the Northerly line of said Baltimore Avenue, said line being also the Southerly line of Lot 5 of said subdivision, except the Easterly 20.00 feet thereof, a distance of 130.00 feet to the Southwesterly corner of said lot; thence North 26 degrees 14 minutes 56 seconds West, along the Easterly line of a public alley (16 feet wide), said line being also the Westerly line of Lots 5 through 1 inclusive of said subdivision, a measured distance of 231.06 feet (recorded 231.00 feet) to the Northwesterly corner of said Lot 1; thence North 63 degrees 11 minutes 00 seconds East along the Southerly line of said Milwaukee Avenue, said line being also the Northerly line of Lot 1, except the Easterly 20.00 feet thereof, a measured distance of 130.12 feet (described 130.00 feet) to the point of beginning.

#### Parcel B:

Lots 15 through 20 inclusive of "Leavitt's Subdivision of that part of fractional Section 31, Town 1 South, Range 12 East, bounded by Milwaukee and Woodward Avenues, Grand Trunk Railroad and rear line of private claims and West line of said fractional Section 31 also Lots 8 to 17 both inclusive, part of block 5 of Henry Weber's Subdivision of part of fractional Section 31 and 36 Town 1 South, Range 11 and 12 East and part of the Baker and Forsyth Farms" City of Detroit, Wayne County, Michigan as recorded in Liber 9 of Plats on Page 17, Wayne County Records and being more particularly described as follows: Beginning at the Northeasterly corner of Baltimore Avenue (60 feet wide) and Cass Avenue (80 feet wide), said point being also the southwesterly corner of Lot 15 of said "Leavitt's Subdivision" (Liber 9 plats, Page 17, Wayne

County Records); proceeding thence from said point of beginning North 26 degrees 19 minutes 00 seconds West, along the Easterly line of said Cass Avenue, said line being also the Westerly line of said Lot 15, a distance of 107.50 feet to the Northwestern corner of said lot; thence North 63 degrees 12 minutes 10 seconds East, along the Southerly line of a public alley (16 feet wide), said line being also the Northerly line of Lots 15 through 20, inclusive of said subdivision, a measured distance of 204.13 feet to the Northeast corner of said Lot 20; thence South 26 degrees 14 minutes 56 seconds East, along the Westerly line of a public alley (16 feet wide), said line being also the Easterly line of Lot 20 of said subdivision, a distance of 107.50 feet to the Southeast corner of said Lot 20; thence South 63 degrees 12 minutes 10 seconds West, along the Northerly line of said Baltimore Avenue, said line being also the Southerly line of Lots 20 through 15 inclusive of said subdivision, a distance of 204.00 feet to the point of beginning.

Parcel C:

Lots 21 through 26 inclusive of "Leavitt's Subdivision of that part of fractional Section 31, Town 1 South, Range 12 East bounded by Milwaukee and Woodward Avenues, Grand Trunk Railroad and rear line of Private Claims and West line of said fractional Section 31, also Lots 8 to 17 inclusive, Part of Block 5 of Henry Weber's Subdivision of part of fractional Section 31 and 36, Town 1 South, Range 11 and 12 East, and part of The Baker and Forsyth Farms", City of Detroit, Wayne County, Michigan, as recorded in Liber 9 of Plats on Page 17, Wayne County Records and being more particularly described as follows: Beginning at the Southeast corner of Milwaukee Avenue (60 feet wide) and Cass Avenue (80 feet wide), said point being also the Northwestern corner of Lot 26 of said "Leavitt's Subdivision" (Liber 9 of Plats, Page 17, Wayne County Records); proceeding thence from said point of beginning North 63 degrees 11 minutes 00 seconds East, along the Southerly line of said Milwaukee Avenue, said line being also the Northerly line of Lots 26 through 21 inclusive of said subdivision, a measured distance of 204.27 feet (recorded 204.00 feet) to the Northeast corner of Lot 21; thence South 26 degrees 14 minutes 56 seconds East, along the Westerly line of a public alley (16 feet wide), said line being also the Easterly line of Lot 21 of said subdivision, a measured distance of 107.56 feet (recorded 107.50 feet) to the Southeast corner of said Lot 21; thence South 63 degrees 12 minutes 10 seconds West, along the Northerly line of a public alley (16 feet wide), said line being also the Southerly line of Lots 21 through 26 inclusive of said subdivision, a measured distance of 204.15 feet (recorded 204.00 feet) to the Southwest corner of said Lot 26; thence North 26 degrees 19 minutes 00 seconds West, along the Easterly line of said Cass Avenue, said line being also the Westerly line of Lot 26 of said subdivision, a measured distance of 107.48 feet (recorded 107.50 feet) to the point of beginning.

**EXHIBIT C**

**NOTICE OF LICENSE TERM**

This NOTICE OF LICENSE TERM, NLT, is given by TEF-SIX, LLC, Licensee, to COLLEGE FOR CREATIVE STUDIES, Licensors, with respect to that certain Parking License Agreement dated \_\_\_\_\_ ("License"), under which Licensee has licensed a certain number of parking spaces in certain parking facilities.

In consideration of the mutual covenants and agreements stated in the License, and intending that this Agreement may be relied upon by Licensors and any prospective purchaser or present or prospective Encumbrance holder, Licensee certifies and confirms the following:

- (a) The License Commencement Date is \_\_\_\_\_, 20\_\_
- (b) The License Expiration Date is \_\_\_\_\_, 20\_\_.

Except for those terms expressly defined in this NLT, all initially capitalized terms will have the meanings stated for such terms in the License.

EXECUTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 200\_\_.

**LICENSEE:**

**TEF-SIX, LLC,**  
a Michigan limited liability company

By: \_\_\_\_\_

Print: Robert M. Thompson

Title: Manager

**LICENSOR:**

**COLLEGE FOR CREATIVE STUDIES,**  
a Michigan non-profit corporation

By: \_\_\_\_\_

Print: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT C**

**NOTICE OF LICENSE TERM**

This NOTICE OF LICENSE TERM, NLT, is given by TEF-SIX, LLC, Licensee, to COLLEGE FOR CREATIVE STUDIES, Licensor, with respect to that certain Parking License Agreement dated \_\_\_\_\_ ("License"), under which Licensee has licensed a certain number of parking spaces in certain parking facilities.

In consideration of the mutual covenants and agreements stated in the License, and intending that this Agreement may be relied upon by Licensor and any prospective purchaser or present or prospective Encumbrance holder, Licensee certifies and confirms the following:

- (a) The License Commencement Date is \_\_\_\_\_, 20\_\_
- (b) The License Expiration Date is \_\_\_\_\_, 20\_\_.

Except for those terms expressly defined in this NLT, all initially capitalized terms will have the meanings stated for such terms in the License.

EXECUTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 200\_.

**LICENSEE:**

**TEF-SIX, LLC,**  
a Michigan limited liability company

By: \_\_\_\_\_

Print: \_\_\_\_\_

Title: \_\_\_\_\_

**LICENSOR:**

**COLLEGE FOR CREATIVE STUDIES,**  
a Michigan non-profit corporation

By: Anne D. Beck

Print: Anne D. Beck

Title: Vice President for Administration  
and Finance

[Parking License Agreement - Exhibit C - Signature



## PARKING SUBLICENSE AGREEMENT

**THIS PARKING SUBLICENSE AGREEMENT** (this "Agreement"), made this 30<sup>th</sup> day of September, 2008, by and between **TEF-SIX, LLC**, a Michigan limited liability company, having an office at c/o P.O. Box 6349, Plymouth, Michigan 48170, Attention: John G. Cleary ("Sublicensor"), and **CREATIVE URBAN EDUCATION, INC.**, a Michigan non-profit corporation, having an office at 201 E. Kirby, Detroit, Michigan 48202 ("Sublicensee").

### RECITALS:

A. College for Creative Studies, as Licensor, and Sublicensor, as Licensee, entered into a certain Parking License Agreement (the "License Agreement") whereby Sublicensor was granted a license for vehicular parking of passenger motor vehicles in a (i) parking deck that College for Creative Studies intends to construct on the land described in **Exhibit A** attached hereto (the "Parking Deck") and (ii) surface parking lot that Licensor intends to install on the land described in **Exhibit B** attached hereto (the "Surface Parking Lot") (the holder of the Licensor's interest in the License Agreement from time to time is referred to herein as the "Licensor").

B. Simultaneously herewith, Sublicensor, as Sublandlord, and Sublicensee, as Subtenant, entered into a sublease of certain space located within the building commonly known as the Argonaut Building, Detroit, Michigan (the "Sublease").

C. Sublicensee is desirous of obtaining spaces for vehicular parking in the Parking Deck and Surface Parking Lot, the same to be used for the parking of passenger motor vehicles of Sublicensee's employees.

D. Sublicensee is a tax exempt organization.

E. Sublicensor is willing to grant parking spaces in the Parking Deck and the Surface Parking Lot upon and subject to the terms, covenants and conditions hereinafter set forth.

### AGREEMENT:

In consideration of the premises and other good and valuable consideration, Sublicensor and Sublicensee hereby agree as follows:

1. **Parking Allotment.** During the term of this Agreement, if Sublicensee is not in default of this Agreement or the Sublease, Sublicensee may, subject to availability, use no more than the Parking Deck Allotment in order to park only insured, registered, passenger, motor vehicles (each, a "Vehicle") in the Parking Deck and no more than the Surface Parking Lot Allotment in order to park Vehicles in the Surface Parking Lot. "Parking Deck Allotment" means 95 permits for unreserved parking spaces in the Parking Deck, and "Surface Parking Lot Allotment" means 42 permits for unreserved parking spaces in the Surface Parking Lot (the Parking Deck Allotment and Surface Parking Lot Allotment are collectively referred to herein as

the "Parking Allotment"). Sublicensee's employees shall also have a license to use the common areas in the Parking Facilities for ingress and egress to and from the Parking Facilities.

2. **Parking Cards.** Vehicular ingress and egress to and from the Parking Facilities shall be by parking access cards or such other system as Licensor may decide upon from time to time. If parking access cards are issued, Sublicensee will pay a non-refundable fee of \$10 to Licensor for each new or replaced parking access card. Parking access cards not working properly will be replaced at no charge. Parking access cards will not be activated until the Sublicensee or Patron provides Licensor with each Vehicle's license plate number and description.

3. **License Fees.**

(a) Sublicensee shall pay when due, directly to Licensor, all "License Fees" payable by Sublicensee to Licensor under Section 3 of the License Agreement. Sublicensor shall promptly furnish Sublicensee with all notices received by Sublicensor from Licensor regarding estimates of License Fees and Special Assessments (as defined in the License Agreement) and year end statements of the actual License Fees. If Sublicensee gives Sublicensor written notice objecting to any items of License Fees set forth in the annual statement within ninety (90) days after Sublicensor's receipt of such statement, Sublicensor will give Licensor written notice objecting to such statement, based on the items objected to by Sublicensee, within ninety (90) days after Sublicensor's receipt of such statement.

(b) Terms of Payment. Unless otherwise provided in this Agreement, Sublicensee shall pay License Fees without notice, demand, deduction, abatement or setoff, in lawful U.S. currency, at Licensor's Billing Address set forth in the License Agreement. Sublicensor will send invoices payable by Sublicensee to Sublicensee's Billing Address; however, neither Sublicensor's failure to send an invoice nor Sublicensee's failure to receive an invoice for installments of estimated License Fees will relieve Sublicensee of its obligation to pay installments of estimated License Fees. Each partial payment by Sublicensee shall be deemed a payment on account. No endorsement or statement on any check or any accompanying letter shall constitute an accord and satisfaction, affect Sublicensor's right to collect the full amount due, or require Sublicensor to apply any payment to other than License Fees earliest due. No payment by Sublicensee to Sublicensor will be deemed to extend the Term or render any notice, pending suit or judgment ineffective. By notice to the other, each party may change its Billing Address. Any payment made by Sublicensee to a lockbox maintained by Licensor or Sublicensor for receipt of payment of License Fees shall not be deemed to have been accepted by Licensor or Sublicensor provided such payment is returned to Sublicensee within ten (10) days after Licensor receives notice that the payment has been received into the lockbox.

(c) Late Payment. If Sublicensor is charged a "Late Charge" under the License Agreement because Sublicensee failed to paid Licensor when due any License Fees, Sublicensee shall pay each such Late Charge directly to Licensor.

4. **Term.** "Term" means the period that begins on the License Commencement Date (as defined in the License Agreement) and ends on the Sublicense Expiration Date (as defined below), subject to renewal or earlier termination as may be further provided in this



Agreement. "Sublicense Expiration Date" means the earlier of the License Expiration Date (as defined in the License Agreement) and the date Sublicensee or any permitted assignee or sublicensee under this Agreement is not tax exempt under state and/or federal law. Notwithstanding anything to the contrary contained in this Agreement, in the event the Sublease, the License Agreement or that certain Education Management Agreement contemplated to be entered into between The Public School Academies of Detroit and Sublicensee (the "Management Agreement") terminates prior to the expiration or earlier termination of this Agreement then this Agreement shall terminate simultaneously with the termination of the Sublease, License Agreement or Management Agreement without any liability of Sublicensor to Sublicensee.

Sublicensor shall notify Sublicensee of the License Commencement Date using a Notice of Agreement Term (the "Notice") in the form attached to this Agreement as **Exhibit C**. Sublicensee shall execute and deliver to Licensor the Notice within ten (10) business days after its receipt, but Sublicensee's failure to do so will not reduce Sublicensee's obligations or Sublicensor's rights under this Agreement.

5. **Assignment.** Except as provided below, neither Sublicensee nor any Patron may assign or sublease its license to park or its Parking Allotment without Licensor's and Sublicensor's prior consent, which consent may be withheld in their respective sole and absolute discretion. Notwithstanding the foregoing, Sublicensee may assign this Agreement to an assignee of the Sublease pursuant to an assignment of the Sublease permitted under Article 13 of the Sublease, and Sublicensee may sublicense all or a portion of its license to park or Parking Allotment to a person or entity that subleases all or any portion of the Premises (as defined in the Sublease) from Sublicensee pursuant to a sublease permitted under Article 13 of the Sublease, provided that any such assignee or sublicensee is tax exempt under federal and state law.

6. **Use.** Sublicensee's Parking Allotment may be used only by the employees of Sublicensee or an assignee or sublicensee permitted under Section 5 hereof (each, a "Patron"). Patrons will be granted access to the Parking Facilities only upon signing Licensor's standard parking license with Licensor. Storage of Vehicles overnight is prohibited.

7. **Disclaimer.** Each Patron only has a license to park in the Parking Facilities at the Patron's sole risk. No bailment is created. Neither Licensor nor Sublicensor is obligated to secure or insure Vehicles or their contents, and is not be responsible for any fire, theft, damage or loss to any Vehicle or its contents. Attendants are present solely to assist Patrons and are not required to verify ownership of Vehicles exiting the Parking Facilities. Neither Licensor nor Sublicensor represents, guarantees or warrants that any communication or security systems, devices or procedures in the Parking Facilities will be effective to prevent any loss, damage or injury to Sublicensee, Patrons or their guests. Licensor may discontinue or modify any of these systems, devices or procedures at any time without any liability to Sublicensee, Patrons, or their guests.

8. **Repairs, Improvements, Damage or Condemnation.** Licensor may modify, renovate or improve the Parking Facilities as Licensor deems appropriate. If any Patron is unable to use the Parking Facilities because of major repairs or improvements, damage or condemnation to the Parking Facilities or Project, Sublicensor will not be in default of this

Agreement and neither Licensor nor Sublicensor will have any liability to Sublicensee with respect to any such repairs, improvements, damage or condemnation. While Sublicensor is not obligated to perform any of Licensor's obligations under Section 8 of the License Agreement, Sublicensor shall, upon Sublicensee's request and at Sublicensee's expense, use reasonable efforts to cause Licensor to perform its obligations under such Section of the License Agreement.

9. **Rules and Regulations.** This license is conditioned upon each Patron's compliance with the following Parking Facilities rules and regulations ("Parking Rules and Regulations"):

- (a) Patron may be required to display a sticker, tag or other identification;
- (b) Vehicle must be parked entirely within the painted stall lines. Parking is prohibited in: areas not striped for parking; aisles; areas where "No Parking" signs are posted; cross hatched areas; and in such other areas as may be designated by Licensor including areas designated as "Visitor Parking" or reserved spaces not licensed under this Agreement;
- (c) All directional signs and arrows must be observed;
- (d) The speed limit shall be 5 miles per hour, unless posted otherwise;
- (e) Unless attended parking is required by Licensor, Patrons must park and lock their Vehicle;
- (f) Spaces designated for compact Vehicle shall not be used by full-sized Vehicle;
- (g) Parking Facilities' managers and attendants are not authorized to make or allow any exceptions to Parking Rules and Regulations; and
- (h) Parking Rules and Regulations may be modified by Licensor with notice to Licensee.

Licensor may refuse to permit any Patron, who violates the Parking Rules and Regulations, to park in the Parking Facilities and may remove the Patron's Vehicle at the Patron's and Sublicensee's expense.

10. **Damage or Destruction.**

(a) **Damage and Repair.** While Sublicensor has no obligation to perform Licensor's repair and restoration obligations under Section 11(a) of the License Agreement, Sublicensor shall, upon Sublicensee's request and at Sublicensee's expense, use reasonable efforts to cause Licensor to perform such obligations.

(b) **License Fees.** If as a result of the damage or destruction caused by fire or other casualty, the number of parking spaces that Sublicensee is otherwise entitled to use at such

time under this Agreement (the "Permitted Spaces") is not available for use by Sublicensee (the amount by which the number of Permitted Spaces exceeds such available spaces is referred to herein as the "Unavailable Spaces"), License Fees shall, to the extent Licensor receives the proceeds of loss of rental income insurance, be abated in the proportion that the number of Unavailable Spaces bears to the number of Permitted Spaces from the 4th consecutive business day after the occurrence of such damage or destruction until the Unavailable Spaces again become available. Sublicensee's sole remedy against Sublicensor for damage or destruction of any part of the Parking Facilities is abatement of License Fees under this Section 11(b), and Sublicensor will not be liable to Sublicensee for any other amount, including consequential damages.

11. **Taking.** "Taking" means acquiring of all or part of the Parking Facilities for any public or quasi-public use by exercise of a right of eminent domain or under any other law, or any sale in lieu thereof. If a Taking occurs:

- (a) **Total Taking.** If a Taking of substantially all of the parking spaces in the Parking Facilities for substantially all of the remaining Term occurs, then the Agreement terminates on the date of the Taking.
- (b) **Partial Taking.** If a Taking does not cause the Agreement to be terminated under (a), then Licensor is responsible under the License Agreement to restore (and alter, as necessary) the Parking Facilities, unless the Agreement is terminated as a result of a termination of the License Agreement or this Agreement is terminated by Sublicensee under the following circumstances:
  - (1) Sublicensee may terminate the Agreement upon 60 days prior written notice to Sublicensor if more than 50% of the total Parking Spaces in the Parking Deck and Surface Parking Lot are taken pursuant to such Taking for the remainder of the Term.

Licensor is entitled to the entire award for any claim for a taking of any interest in this Agreement or the Parking Facilities, without deduction or offset for Sublicensee's interest.

12. **Sublicensor Transfers.**

(a) **Sublicensor's Transfer.** Sublicensor's right to transfer any interest in the Parking Facilities or this Agreement is not limited by this Agreement. Upon any such transfer, Sublicensee will attorn to Sublicensor's transferee and Sublicensor will be released from liability under this Agreement, except for any obligations under this Agreement accruing before the transfer that are not assumed by the transferee.

(b) **Subordination.** This Agreement is, and will at all times be, subject and subordinate to each ground lease, mortgage, deed to secure debt or deed of trust now or later encumbering the Parking Facilities or any portion thereof, including each renewal, modification, supplement, amendment, consolidation or replacement thereof (each, an "Encumbrance"). At Licensor's request, Sublicensee will, without charge, promptly execute, acknowledge and deliver

to Licensor (or, at Licensor's request, the Encumbrance holder) any instrument reasonably necessary to evidence this subordination. Notwithstanding the foregoing, each Encumbrance holder may unilaterally elect to subordinate its Encumbrance to this Agreement.

(c) Attornment. Sublicensee will automatically attorn to any transferee of Sublicensor's interest in the Parking Facilities that succeeds Sublicensor by reason of a termination, foreclosure or enforcement proceeding of an Encumbrance, or by delivery of a deed in lieu of any foreclosure or proceeding (a "Successor Sublicensor"). In this event, the Agreement will continue in full force and effect as a direct license between the Successor Sublicensor and Sublicensee on all of the terms of this Agreement, except that the Successor Sublicensor shall not be:

- (1) Liable for any obligation of Sublicensor under this Agreement, or be subject to any counterclaim, defense or offset accruing before Successor Sublicensor succeeds to Sublicensor's interest;
- (2) Bound by any modification or amendment of this Agreement made without Successor Sublicensor's consent;
- (3) Bound by any prepayment of more than one Month's License Fees;  
or
- (4) Obligated to perform any improvements to the Parking Facilities (or provide an allowance therefor). Upon Successor Sublicensor's request, Sublicensee will, without charge, promptly execute, acknowledge and deliver to Successor Sublicensor any instrument reasonably necessary or required to evidence such attornment.

(d) Estoppel Certificate. Within 10 days after receipt of Licensor's written request, Sublicensee (and each guarantor and transferee of an interest in the Agreement) will execute, acknowledge and deliver to Licensor a certificate upon which Licensor and each existing or prospective Encumbrance holder may rely confirming the following (or any exceptions to the following):

- (1) The License Commencement Date and License Expiration Date;
- (2) The documents that constitute the Agreement, and that the Agreement is unmodified and in full force and effect;
- (3) The date through which License Fees have been paid;
- (4) That neither Sublicensor nor Sublicensee is in default of this Agreement; and
- (5) Such other matters concerning this Agreement that Sublicensor may reasonably require.

#### 14. Default and Remedies.

(a) Sublicensee's Default. Sublicensee is in default ("Default") of this Agreement if any of the following occur:

- (i) Sublicensee fails to pay Licensee Fees when due, and the failure continues for 10 days after notice to Sublicensee of the failure.
- (ii) Sublicensee fails to perform a non-monetary obligation under this Agreement and the failure continues for 20 days after notice to Sublicensee of the failure, except that if Sublicensee begins performing this obligation within 20 days after notice to Sublicensee of this failure, but it will reasonably take more than 20 days to complete performing the obligation, then Sublicensee will have a reasonable amount of additional time to complete performing the obligation so long as Sublicensee diligently pursues the performance of such obligation to completion.
- (iii) Assigns this Agreement or sublicenses its license to park or its Parking Allotment in violation of this Agreement.
- (iv) Sublicensee fails to discharge any attachment or levy on Sublicensee's interest in this Agreement within 15 days after the attachment or levy encumbers this Agreement.
- (v) Sublicensee fails to cause any of the following proceedings to be vacated or dismissed within 60 days after they are commenced: (1) the appointment of a receiver or trustee of the assets of Sublicensee or any guarantor of this Agreement, (2) the voluntary or involuntary bankruptcy of Sublicensee or any guarantor of this Agreement, or (3) any assignment for the benefit of creditors of the assets of Sublicensee or any guarantor of this Agreement.
- (vi) Sublicensee is named on the list of Specially Designated Nationals and Blocked Persons maintained by the Office of Foreign Assets Control of the United States Department of the Treasury or any such similar list maintained by the state or federal government.
- (vii) A Default under the Sublease occurs.

(b) Remedies. If a Default occurs, Sublicensor shall have the rights and remedies set forth in this subsection (b) which shall be distinct, separate and cumulative and shall not operate to exclude or deprive Sublicensor of any other right or remedy allowed it by law or at equity.

- (i) Sublicensor may terminate this Agreement by giving notice to Sublicensee of Sublicensor's election to do so, in which event the

Term of this Agreement shall end, and all right, title and interest of Sublicensee hereunder shall expire, on the date stated in such notice. Written notice alone shall be proof of any such election by Sublicensor. No termination of this Agreement shall terminate Sublicensee's obligations under this Agreement to pay Sublicensee Fees, which obligation shall survive such termination.

(ii) Sublicensor may enforce the provisions of this Agreement and may enforce and protect the rights of Sublicensor by a suit or suits in equity or at law for the specific performance of any covenant or agreement contained in this Agreement, or for the enforcement of any other appropriate legal or equitable remedy, including recovery of all moneys due or to become due from Sublicensee under any of the provisions of this Agreement.

(iii) Sublicensor may, but shall not be obligated to, cure Sublicensee's Default by making any payment or performing such other act to the extent Sublicensor may deem desirable. Any such cure by Sublicensor shall be without notice and shall not waive or release Sublicensee from any obligation under this Agreement. Sublicensee covenants and agrees to pay Sublicensor, upon demand, all advances, costs and expenses incurred by Sublicensor in connection with such cure, including reasonable attorney's fees, together with interest at the Default Rate (as defined below), from the date such are incurred by Sublicensor to the date of payment to Sublicensor.

(c) If Sublicensor terminates this Agreement pursuant to subparagraph (b):

(i) Sublicensor shall be entitled to recover any and all License Fees due and unpaid as of the date of termination. Sublicensee shall immediately pay to Sublicensor all such License Fees.

(ii) (A) Sublicensor shall have the right from time to time, recover from Sublicensee, and Sublicensee shall remain liable for, all License Fees and any other sums accruing as they become due under this Agreement through the remainder of the stated Term.

(B) Any License Fees received by Sublicensor from relicensing the Parking Deck Allotment or Surface Parking Allotment shall be deemed to reduce Sublicensee's indebtedness to Sublicensor as follows: (x) first, to reduce Sublicensee's obligation to reimburse Sublicensor for Costs of Re-Licensing, then (y) to reduce Sublicensee's obligation to Sublicensor for Enforcement Costs, and then (z) to reduce Sublicensee's obligation for the payment of License Fees

reserved in this Agreement for the remainder of the stated Term of this Agreement. In no event shall Sublicensee be entitled to a reduction (of its indebtedness to Sublicensor) in an amount in excess of the aggregate sum of the License Fees which would have been payable by Sublicensee for the remainder of the stated Term of this Agreement, if no Default had occurred.

(C) As it becomes due, and without notice or demand, Licensee shall pay to Sublicensor an amount equal to the License Fees which would have been payable by Licensee for the remainder of the stated Term of this Agreement, less any applicable reductions pursuant to the immediately preceding sentence.

(D) Licensee shall, upon demand, reimburse Sublicensor, with interest at the Default Rate from the date incurred through the date of payment to Sublicensor, the Enforcement Costs and Costs of Re-Licensing.

(iii) Sublicensor shall not be required to mitigate any of its damages hereunder. If any law shall validly limit the amount of any damages provided for herein to an amount which is less than the amount agreed to herein, Sublicensor shall be entitled to the maximum amount available under such law.

(d) Definitions.

(i) "Enforcement Costs" shall be all sums, costs, expenses and damages (in addition to Costs of Re-Licensing and including reasonable attorneys' fees) which are incurred by Sublicensor in enforcing the Sublicensee's obligations under this Agreement or by reason of Sublicensee's Default, including without limitation, those arising out of any action brought by Sublicensor against Sublicensee to interpret any provision of this Agreement or in connection with a bankruptcy or an assignment for the benefit of creditors.

(ii) "Costs of Relicensing" shall mean all costs and expenses incurred by Sublicensor for any brokerage commissions, advertising costs, attorneys' fees, take-over lease obligations, costs of collecting License Fees or other sums from Replacement Sublicensees and other costs incurred by Sublicensor in relicensing the Parking Deck Allotment or Surface Parking Allotment or any portion thereof to Replacement Sublicensees.

(iii) "Replacement Sublicensees" shall mean any persons or entities to whom Sublicensor re-licenses the Parking Deck Allotment or Surface Parking Allotment or any portion thereof.

(iv) Reasonable attorneys' fees shall include the value of services provided by counsel employed by Sublicensor or its Affiliates in the amount that Sublicensor would have reasonably incurred if the services had been performed by unaffiliated counsel.

(e) Interest. If Sublicensee at any time fails to make any payment of License Fees or of any amounts owed under this Agreement, and as a result, Sublicensor is charged interest thereon by Licensor pursuant to the License Agreement, Sublicensee shall pay all such interest directly to Licensor.

(f) Waivers. Sublicensor and Sublicensee expressly waive any right to trial by jury with respect to any proceeding pertaining to this Agreement. No waiver by Sublicensor of any Default of Sublicensee shall be implied to affect, and no express waiver shall affect, any Default other than the Default specified in such waiver and that only for the time and to the extent stated.

(g) Force Majeure. "Force Majeure" means any cause or event beyond the reasonable control of a party to this Agreement, including any act of God, government act or restriction, labor disturbance, general shortage of materials or supplies, riot, insurrection, or act of war or terrorism. Force Majeure excuses a party from performing any non-monetary obligation under this Agreement for a commercially reasonable time.

(h) Sublicensor's Default and Remedies.

(i) Sublicensor will be in "Default" of this Agreement if Sublicensor fails to perform any obligation of Sublicensor under this Agreement and this failure continues for 30 days after Sublicensee notifies Sublicensor of such failure, or such longer period of time as is reasonable if more than 30 days is reasonably required to perform this obligation if performance commences within this 30-day period and is diligently prosecuted to completion.

(ii) If Sublicensor is in Default, then Sublicensee may exercise any remedy available under law that is not waived or limited under this Agreement, subject to the following:

(A) Sublicensee may not terminate this Agreement due to any Sublicensor Default.

(B) No liability under this Agreement is assumed by Sublicensor's Affiliates.

"Affiliates" means with respect to a party (i) that party's partners, co-members and joint venturers, (ii) each corporation or other entity that is a parent or subsidiary of that party, (iii) each corporation or other entity that is controlled by or under common control of a parent of such



party, and (iv) the directors, officers, employees and agents of that party and each person or entity described in (i-iii) above.

# 15. **Miscellaneous.**

(a) **Notice.** Notice to Sublicensor must be given to Sublicensor's Notice Addresses as set forth below. Notice to Sublicensee must be given to Sublicensee's Notice Addresses as set forth below. By notice to the other, either party may change its Notice Address. Each notice must be in writing and will be validly given if either: (1) the notice is personally delivered and receipt is acknowledged in writing; or (2) the notice is delivered by a nationally recognized overnight courier service (e.g., Federal Express or Airborne Express) and receipt is acknowledged in writing. If the party to receive notice fails to either accept delivery or acknowledge its receipt in writing, then notice may be validly given by mailing the notice first-class, certified or registered mail, postage prepaid, and the notice will be deemed received by the party 2 business days after the deposit of the notice in the U.S. Mail.

Notice Address:

For each party, the following address:

To Sublicensor	To Sublicensee
TEF-Six, LLC c/o P.O. Box 6349 Plymouth, Michigan 48170 Attention: John G. Cleary	Before the License Commencement Date: Creative Urban Education, Inc, c/o College for Creative Studies 201 E. Kirby Detroit, Michigan 48292-4034 Attn: Anne Beck, Vice President for Administration and Finance  After the License Commencement Date: Creative Urban Education, Inc, c/o College for Creative Studies 201 E. Kirby Detroit, Michigan 48292-4034 Attn: Geoffrey Sleeman, Director of Facilities

Billing Address:

For each party, the following address:

For Sublicensor	For Sublicensee
TEF-Six, LLC c/o P.O. Box 6349 Plymouth, Michigan 48170 Attention: John G. Cleary	Creative Urban Education, Inc, c/o College for Creative Studies 201 E. Kirby Detroit, Michigan 48292-4034 Attn: Anne Beck, Vice President for Administration and Finance

(b) Entire Agreement. This Agreement is deemed integrated and contains all of each party's representations, waivers and obligations. The parties may only modify or amend this Agreement in a writing that is fully executed and delivered by each party.

(c) Successors. Unless provided to the contrary elsewhere in this Agreement, this Agreement binds and inures to the benefit of each party's heirs, successors and permitted assignees.

(d) No Waiver. A party's waiver of a breach of this Agreement will not be considered a waiver of any other breach. No custom or practice that develops between the parties will prevent either party from requiring strict performance of the terms of this Agreement. No Agreement provision or act of a party creates any relationship between the parties other than that of sublicensor and sublicensee.

(e) Independent Covenants. The covenants of this Agreement are independent. A court's declaration that any part of this Agreement is invalid, void or illegal will not impair or invalidate the remaining parts of this Agreement, which will remain in full force and effect.

(f) Captions. The use of captions, headings, boldface, italics or underlining is for convenience only, and will not affect the interpretation of this Agreement.

(g) Authority.

- (i) Individuals signing this Agreement on behalf of Sublicensee represent and warrant that they are authorized to bind Sublicensee to this Agreement, and that Sublicensee is qualified to do business in the State of Michigan. If required by Sublicensor, Sublicensee will, at Sublicensee's cost, provide Sublicensor with a corporate resolution or other documentation acceptable to Sublicensor proving the authority of each individual signatory to bind Sublicensee to this Agreement.
- (ii) Sublicensee represents and warrants to Sublicensor that Sublicensee is not named on the list of Specially Designated Nationals and Blocked Persons maintained by the Office of Foreign Assets Control of the United States Department of the Treasury or any such similar list maintained by the state or federal government.
- (iii) Sublicensee represents and warrants to Sublicensor that any individual or entity involved in this Agreement transaction on behalf of Sublicensee is not named on the list of Specially Designated Nationals and Blocked Persons maintained by the Office of Foreign Assets Control of the United States Department of the Treasury or any such similar list maintained by the state or federal government.

(h) Applicable Law. The laws of Michigan govern this Agreement. In any action brought under this Agreement, Sublicensee submits to the jurisdiction of the courts of the State of Michigan, and to venue in the County of Wayne.

(i) Confidentiality. Sublicensee will not record this Agreement or a memorandum of this Agreement without Sublicensor's written consent. Sublicensee will keep the terms of this Agreement confidential and, unless required by law, may not disclose the terms of this Agreement to anyone other than Sublicensee's Affiliates to the extent necessary to Sublicensee's business.

(j) Reasonableness. Sublicensee's sole remedy for any claim against Sublicensor that Sublicensor has unreasonably withheld or unreasonably delayed any consent or approval shall be an action for injunctive or declaratory relief, it being acknowledged and agreed that no such claim may be asserted against Sublicensor except where Sublicensor has expressly agreed in this Agreement that it may not unreasonably withhold or delay its consent or approval.

(k) Time. Time is of the essence as to all provisions in this Agreement in which time is a factor.

(l) Exhibits. The exhibits attached to this Agreement are incorporated herein. If any exhibit is inconsistent with the terms of this Agreement, the provisions of the Exhibit will govern. The Exhibits to this Agreement are:

- EXHIBIT A Description of Baltimore Parcel
- EXHIBIT B Description of Woodward Parcel
- EXHIBIT C Notice of Sublicense Term

16. **Renewal Option.** Sublicensee shall have eighteen (18) options to renew this Agreement (each a "Renewal Option") for eighteen (18) additional terms of five (5) years each (each a "Renewal Term") upon the same terms, covenants and conditions as are contained in this Agreement. Sublicensee must exercise the Renewal Option by giving written notice thereof to Sublicensor at least twelve (12) months prior to the expiration of the Term, as the same may have been renewed (a "Notice"). A Notice shall be effective only if (a) on the date the Notice is given no Default exists, (b) Sublicensee exercises or has exercised its option to renew the Sublease pursuant to the terms thereof for the corresponding Renewal Term thereunder, and (c) Sublicensor exercises or has exercised its option to renew that certain Sublease between Argonaut Building Master Tenant, LLC, as Sublandlord, and Sublicensor, as Subtenant (the "TEF Building Sublease"), of the premises covered by the Sublease for an additional term of ninety (90) years pursuant to the terms of the TEF Building Sublease.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**WITNESSES:**

John G. Cleary  
John G. Cleary  
Cathy Ebner  
Cathy Ebner

**SUBLICENSOR:**

**TEF-SIX, LLC**, a Michigan limited liability company

By: MAA

Its: Manager

**SUBLICENSEE:**

**CREATIVE URBAN EDUCATION, INC.**,  
a Michigan non-profit corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

WITNESSES:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SUBLICENSOR:

TEF-SIX, LLC, a Michigan limited liability company

By: \_\_\_\_\_

Its: \_\_\_\_\_

SUBLICENSEE:

CREATIVE URBAN EDUCATION, INC.,  
a Michigan non-profit corporation

By: *[Signature]*

Its: Treasurer

[Parking Sublicense Agreement – Signature page]

## **EXHIBIT A**

### **THE BALTIMORE PARCEL**

#### **Second and Baltimore Parcel**

Land situated in the City of Detroit, County of Wayne, State of Michigan, described as follows:

LOTS 61 THROUGH 69 INCLUSIVE AND THE EASTERLY 9.00 FEET OF LOT 70, INCLUDING THE VACATED ALLEY (12 FEET WIDE) LYING ADJACENT TO SAID LOTS OF "LEAVITT'S SUBDIVISION OF THAT PART OF FRACL SECN 31, T. 1 S., R. 12 E., BOUNDED BY MILWAUKEE AND WOODWARD AVES GRAND TRUNK RAILROAD AND REAR LINE OF PRIVATE CLAIMS AND WEST LINE OF SAID FRACL SECN 31, ALSO LOTS 8 TO 17 BOTH INCLUSIVE PART OF BLOCK 5 OF HENRY WEBER'S SUBN OF PART OF FRACL SECNS 31 AND 36, T. 1 S., R. 11 AND 12 E. AND PART OF THE BAKER AND FORSYTH FARMS", CITY OF DETROIT, WAYNE COUNTY, MICHIGAN AS RECORDED IN LIBER 9 OF PLATS ON PAGE 17, WAYNE COUNTY RECORDS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWESTERLY CORNER OF BALTIMORE AVENUE (60 FEET WIDE) AND CASS AVENUE (80 FEET WIDE), SAID POINT BEING ALSO THE NORTHEASTERLY CORNER OF LOT 61 OF SAID "LEAVITT'S SUBDIVISION" (L. 9, PLATS, P. 17, W.C.R.); PROCEEDING THENCE FROM SAID POINT OF BEGINNING SOUTH 26 DEGREES 20 MINUTES 20 SECONDS EAST, ALONG THE WESTERLY LINE OF SAID CASS AVENUE, SAID LINE BEING ALSO THE EASTERLY LINE OF SAID LOT 61 AND THE EASTERLY END OF A VACATED ALLEY (12 FEET WIDE), A DISTANCE OF 117.59 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID "LEAVITT'S SUBDIVISION"; THENCE SOUTH 63 DEGREES 28 MINUTES 00 SECONDS WEST, ALONG THE SOUTHERLY LINE OF SAID SUBDIVISION, SAID LINE BEING ALSO THE SOUTHERLY LINE OF A VACATED PORTION OF SAID ALLEY, A DISTANCE OF 290.83 FEET TO A POINT; THENCE NORTH 26 DEGREES 32 MINUTES 00 SECONDS WEST, ACROSS SAID VACATED ALLEY, A DISTANCE OF 12.00 FEET TO THE SOUTHWESTERLY CORNER OF THE EASTERLY 9.00 FEET LOT 70 OF SAID SUBDIVISION; THENCE NORTH 26 DEGREES 20 MINUTES 20 SECONDS WEST, ALONG THE WESTERLY LINE OF THE EASTERLY 9.00 FEET OF SAID LOT 70, A DISTANCE OF 104.15 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID BALTIMORE AVENUE, SAID POINT BEING ALSO THE NORTHWESTERLY CORNER OF THE EASTERLY 9.00 FEET OF SAID LOT 70; THENCE NORTH 63 DEGREES 11 MINUTES 00

SECONDS EAST, ALONG THE SOUTHERLY LINE OF SAID BALTIMORE AVENUE, SAID LINE BEING ALSO THE NORTHERLY LINE OF THE EASTERLY 9.00 FEET OF SAID LOT 70 AND THE NORTHERLY LINE OF LOTS 69 THROUGH 61 OF SAID SUBDIVISION, A MEASURED DISTANCE OF 290.88 FEET (DESCRIBED 290.66 FEET) TO THE POINT OF BEGINNING. CONTAINING 33,992 SQUARE FEET OR 0.780 ACRE, MORE OR LESS, OF LAND IN AREA.

## EXHIBIT B

### THE WOODWARD PARCEL

Land situated in the City of Detroit, County of Wayne, State of Michigan described as follows:

#### Parcel A:

Lots 1 through 5 inclusive, except the Easterly 20 feet thereof as taken for the widening of Woodward Avenue of "Leavitt's Subdivision of that part of fractional Section 31, Town 1 South, Range 12 East, bounded by Milwaukee and Woodward Avenues, Grand Trunk Railroad and rear line of Private Claims and West line of said fractional Section 31, also Lots 8 to 17 both inclusive, part of Block 5 of Henry Weber's Subdivision of part of fractional Sections 31 and 36, Town 1 South, Range 11 and 12 East and part of the Baker and Forsyth Farms", City of Detroit, Wayne County, Michigan, as recorded in Liber 9 of Plats on Page 17, Wayne County Records and being more particularly described as follows: Beginning at the Southwesterly corner of Milwaukee Avenue (60 feet wide) and Woodward Avenue (120 feet wide, as widened), said point being distant South 63 degrees 11 minutes 00 seconds West, 20.00 feet as measured along the North line of Lot 1 of said "Leavitt's Subdivision" (Liber 9 of Plats, Page 17, Wayne County Records), from the Northeast corner of said Lot 1; proceeding thence from said point of beginning South 26 degrees 13 minutes 09 seconds East, along the Westerly line of said Woodward Avenue, as widened, said line being 20.00 feet Westerly of, as measured at right angles to and parallel with the Easterly line of Lots 1 through 5 inclusive of said "Leavitt's Subdivision", a measured distance of 231.10 feet (described 231.00 feet) to the Northwestern corner of Baltimore Avenue (60 feet wide) and said Woodward Avenue; thence South 63 degrees 12 minutes 10 seconds West, along the Northerly line of said Baltimore Avenue, said line being also the Southerly line of Lot 5 of said subdivision, except the Easterly 20.00 feet thereof, a distance of 130.00 feet to the Southwesterly corner of said lot; thence North 26 degrees 14 minutes 56 seconds West, along the Easterly line of a public alley (16 feet wide), said line being also the Westerly line of Lots 5 through 1 inclusive of said subdivision, a measured distance of 231.06 feet (recorded 231.00 feet) to the Northwestern corner of said Lot 1; thence North 63 degrees 11 minutes 00 seconds East along the Southerly line of said Milwaukee Avenue, said line being also the Northerly line of Lot 1, except the Easterly 20.00 feet thereof, a measured distance of 130.12 feet (described 130.00 feet) to the point of beginning.

#### Parcel B:

Lots 15 through 20 inclusive of "Leavitt's Subdivision of that part of fractional Section 31, Town 1 South, Range 12 East, bounded by Milwaukee and Woodward Avenues, Grand Trunk Railroad and rear line of private claims and West line of said fractional Section 31 also Lots 8 to 17 both inclusive, part of block 5 of Henry Weber's Subdivision of part of fractional Section 31 and 36 Town 1 South, Range 11 and 12 East and part of the Baker and Forsyth Farms" City of Detroit, Wayne County, Michigan as recorded in Liber 9 of Plats on Page 17, Wayne County Records and being more particularly described as follows: Beginning at the Northeasterly corner of Baltimore Avenue (60 feet wide) and Cass Avenue (80 feet wide), said point being also the southwesterly corner of Lot 15 of said "Leavitt's Subdivision" (Liber 9 plats, Page 17, Wayne



County Records); proceeding thence from said point of beginning North 26 degrees 19 minutes 00 seconds West, along the Easterly line of said Cass Avenue, said line being also the Westerly line of said Lot 15, a distance of 107.50 feet to the Northwestern corner of said lot; thence North 63 degrees 12 minutes 10 seconds East, along the Southerly line of a public alley (16 feet wide), said line being also the Northerly line of Lots 15 through 20, inclusive of said subdivision, a measured distance of 204.13 feet to the Northeast corner of said Lot 20; thence South 26 degrees 14 minutes 56 seconds East, along the Westerly line of a public alley (16 feet wide), said line being also the Easterly line of Lot 20 of said subdivision, a distance of 107.50 feet to the Southeast corner of said Lot 20; thence South 63 degrees 12 minutes 10 seconds West, along the Northerly line of said Baltimore Avenue, said line being also the Southerly line of Lots 20 through 15 inclusive of said subdivision, a distance of 204.00 feet to the point of beginning.

Parcel C:

Lots 21 through 26 inclusive of "Leavitt's Subdivision of that part of fractional Section 31, Town 1 South, Range 12 East bounded by Milwaukee and Woodward Avenues, Grand Trunk Railroad and rear line of Private Claims and West line of said fractional Section 31, also Lots 8 to 17 inclusive, Part of Block 5 of Henry Weber's Subdivision of part of fractional Section 31 and 36, Town 1 South, Range 11 and 12 East, and part of The Baker and Forsyth Farms", City of Detroit, Wayne County, Michigan, as recorded in Liber 9 of Plats on Page 17, Wayne County Records and being more particularly described as follows: Beginning at the Southeast corner of Milwaukee Avenue (60 feet wide) and Cass Avenue (80 feet wide), said point being also the Northwestern corner of Lot 26 of said "Leavitt's Subdivision" (Liber 9 of Plats, Page 17, Wayne County Records); proceeding thence from said point of beginning North 63 degrees 11 minutes 00 seconds East, along the Southerly line of said Milwaukee Avenue, said line being also the Northerly line of Lots 26 through 21 inclusive of said subdivision, a measured distance of 204.27 feet (recorded 204.00 feet) to the Northeast corner of Lot 21; thence South 26 degrees 14 minutes 56 seconds East, along the Westerly line of a public alley (16 feet wide), said line being also the Easterly line of Lot 21 of said subdivision, a measured distance of 107.56 feet (recorded 107.50 feet) to the Southeast corner of said Lot 21; thence South 63 degrees 12 minutes 10 seconds West, along the Northerly line of a public alley (16 feet wide), said line being also the Southerly line of Lots 21 through 26 inclusive of said subdivision, a measured distance of 204.15 feet (recorded 204.00 feet) to the Southwest corner of said Lot 26; thence North 26 degrees 19 minutes 00 seconds West, along the Easterly line of said Cass Avenue, said line being also the Westerly line of Lot 26 of said subdivision, a measured distance of 107.48 feet (recorded 107.50 feet) to the point of beginning.

**EXHIBIT C**

**NOTICE OF SUBLICENSE TERM**

This NOTICE OF SUBLICENSE TERM, NLT, is given by **CREATIVE URBAN EDUCATION, INC.**, Sublicensee, to **TEF-SIX, LLC**, Sublicensor, with respect to that certain Parking Sublicense Agreement dated \_\_\_\_\_ ("Sublicense"), under which Sublicensee has licensed a certain number of parking spaces in certain parking facilities.

In consideration of the mutual covenants and agreements stated in the Sublicense, and intending that this Agreement may be relied upon by Sublicensor and any prospective purchaser or present or prospective Encumbrance holder, Sublicensee certifies and confirms the following:

- (a) The License Commencement Date is \_\_\_\_\_, 20\_\_
- (b) The Sublicense Expiration Date is \_\_\_\_\_, 20\_\_.

Except for those terms expressly defined in this NLT, all initially capitalized terms will have the meanings stated for such terms in the Sublicense.

EXECUTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 200\_.

**SUBLICENSEE:**

**CREATIVE URBAN EDUCATION, INC.**,  
a Michigan non-profit corporation

By: \_\_\_\_\_

Print: \_\_\_\_\_

Title: \_\_\_\_\_

**SUBLICENSOR:**

**TEF-SIX, LLC**,  
a Michigan limited liability company

By: \_\_\_\_\_

Print: \_\_\_\_\_

Title: \_\_\_\_\_



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**ARGONAUT BUILDING MASTER  
TENANT LLC  
("Sublandlord")**

**TEF-SIX, LLC  
("Subtenant")**

**SUITES #101, 102, 201, 301 AND 401**

**ARGONAUT BUILDING**

**SUBLEASE**

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## SUBLEASE

Sublandlord and Subtenant enter this Sublease ("Sublease") as of the Execution Date on the following terms, covenants, conditions and provisions:

### 1. BASIC SUBLEASE PROVISIONS

**1.1 Basic Sublease Definitions.** In this Sublease, the following defined terms have the meanings indicated.

- (a) Execution Date: \_\_\_\_\_, 2008.
- (b) Sublandlord: Argonaut Building Master Tenant LLC, a Michigan limited liability company
- (c) Subtenant: TEF-Six, LLC, a Michigan limited liability company
- (d) Building: Argonaut Building – 465-485 West Milwaukee Avenue, Detroit, Michigan, deemed to contain 627,396 rentable square feet ("RSF")
- (e) Premises: Suites 101, 102, 201, 301 and 401 (identified on Exhibit A), located on the first, second, third and fourth floors of the Building and deemed to contain:  
123,552 RSF
- (f) Use: Middle school and high school and attendant office use.
- (g) Scheduled Term: The period commencing on the Commencement Date (as defined in Section 3.1) and ending on the Expiration Date (as defined in Section 3.1 hereof).
- (h) Scheduled Commencement Date: July 17, 2009
- (i) Base Rent: The following amounts payable in accordance with Article 4:

Months	Annual Rate per RSF	Annual Base Rent	Monthly Base Rent
All Months (including any Partial Month) falling within the Term	\$10.00	\$1,235,520	\$102,960

- (j) Subtenant's Share: 19.69% - Subtenant's Share will not be adjusted if the Building is not fully leased or occupied.
- (k) Notice Address: For each party, the following address(es):

To Sublandlord	To Subtenant
Argonaut Building Master Tenant LLC c/o College for Creative Studies 201 E. Kirby Detroit, Michigan 48292-4034 Attn: Anne Beck, Vice President for Administration and Finance	Before the Commencement Date: TEF-Six, Inc. c/o Thompson Educational Foundation P.O. Box 6349 Plymouth, Michigan 48170 Attn: John G. Cleary
with a copy to:  Argonaut Building Master Tenant LLC c/o College for Creative Studies 201 E. Kirby Detroit, Michigan 48292-4034	After the Commencement Date: TEF-Six, Inc. c/o Thompson Educational Foundation P.O. Box 6349 Plymouth, Michigan 48170

Attn: Geoffrey Sleeman, Director of Facilities	Attn: John G. Cleary
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- (l) Billing Address: For each party, the following address:

For Sublandlord	For Subtenant
Argonaut Building Master Tenant LLC c/o College for Creative Studies 201 E. Kirby Detroit, Michigan 48292-4034 Attn: Anne Beck, Vice President for Administration and Finance	TEF-Six, Inc. c/o Thompson Educational Foundation P.O. Box 6349 Plymouth, Michigan 48170 Attn: John G. Cleary

- (m) Intentionally Deleted
- (n) Liability Limit: \$5,000,000.00 for any one accident or occurrence.
- (o) Business Hours: From 7:00 a.m. to 6:00 p.m. on Monday through Friday excepting New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and other days that both the middle school and high school are closed to both students and staff ("Holidays").
- (p) Prime Lease: That certain lease of the Project entered into by Argonaut Campus Developer LLC, as Landlord (the holder of the Landlord's interest in the Prime Lease from time to time is referred to herein as the "Prime Landlord"), and Sublandlord, as Tenant.

## 2. PROJECT

**2.1 Project.** The Land, Building and all other improvements now or hereafter located in or on the Land (excluding the Gymnasium Building (as defined below)) are collectively referred to as the "Project."

**2.2 Land.** "Land" means the parcels of real property described in Exhibit B, including easements and other rights that benefit or encumber the real property. Sublandlord's interest in the Land may be in fee or leasehold. The Land may be expanded or reduced after the Execution Date.

**2.3 Base Building.** "Base Building" means Building Structure and Mechanical Systems, collectively, defined as follows:

- (a) **Building Structure.** "Building Structure" means the structural components in the Building, including foundations, floor and ceiling slabs, roofs, exterior walls, exterior glass and mullions, columns, beams, shafts, and emergency stairwells. The Building Structure excludes the Leasehold Improvements (and similar improvements to other premises) and the Mechanical Systems.
- (b) **Mechanical Systems.** "Mechanical Systems" means the mechanical, electronic, physical or informational systems generally serving the Building or other portions of the Project, including the sprinkler, plumbing, heating, ventilating, air conditioning, lighting, communications, security, drainage, sewage, waste disposal, vertical transportation, and fire/life safety systems.

**2.4 Common Areas.** Subtenant will have a non-exclusive right to use the Common Areas subject to the terms of this Sublease. "Common Areas" means those interior and exterior common and public areas on the Land (and appurtenant easements) and in the Building designated by Sublandlord from time to time for the non-exclusive use by Subtenant in common with Sublandlord, other subtenants and occupants, and their employees, agents and invitees. The Common Areas include parking facilities serving the Building that are owned or leased by Sublandlord except for those parking facilities or parking spaces that are from time to time designated or reserved by Sublandlord for the exclusive use of a subtenant or other occupant of the Building or visitors. The Common Areas



do not include the Gymnasium Building. Notwithstanding anything to the contrary contained herein, Subtenant's employees may not park vehicles in any other surface parking lot or other parking facilities located within the Project.

**2.5 Premises.** Sublandlord subleases to Subtenant the Premises subject to the terms of this Sublease. Except as provided elsewhere in this Sublease, by taking possession of the Premises Subtenant accepts the Premises in its "as is" condition and with all faults, and the Premises are deemed in good order, condition, and repair. The Premises includes the Leasehold Improvements and excludes certain areas, facilities and systems, as follows:

- (a) Leasehold Improvements. "Leasehold Improvements" mean all non-structural improvements in the Premises or exclusively serving the Premises, and any structural improvements to the Building made to accommodate Subtenant's particular use of the Premises. The Leasehold Improvements may exist in the Premises as of the Execution Date, or be installed by Sublandlord or Subtenant under this Sublease at the cost of either party, including, but not limited to the work set forth in the attached Exhibit F ("Work Letter"). The Leasehold Improvements include but are not limited to: (1) interior walls and partitions (including those surrounding structural columns entirely or partly within the Premises); (2) the interior one-half of walls that separate the Premises from adjacent areas designated for leasing; (3) the interior drywall on exterior structural walls, and walls that separate the Premises from the Common Areas; (4) stairways and stairwells connecting parts of the Premises on different floors, except those required for emergency exiting; (5) the frames, casements, doors, windows and openings installed in or on the improvements described in (1-4), or that provide entry/exit to/from the Premises; (6) all hardware, fixtures, cabinetry, railings, paneling, woodwork and finishes in the Premises or that are installed in or on the improvements described in (1-5); (7) if any part of the Premises is on the ground floor, the ground floor exterior windows (including mullions, frames and glass); (8) integrated ceiling systems (including grid, panels and lighting); (9) carpeting and other floor finishes; (10) kitchen, rest room, laboratory or other similar facilities that exclusively serve the Premises (including plumbing fixtures, toilets, sinks and built-in appliances); and (11) the sprinkler, plumbing, heating, ventilating, air conditioning, lighting, communications, security, drainage, sewage, waste disposal, vertical transportation, fire/life safety, and other mechanical, electronic, physical or informational systems that exclusively serve the Premises, including the parts of each system that are connected to the Mechanical Systems from the common point of distribution for each system to and throughout the Premises.
- (b) Exclusions from the Premises. The Premises do not include: (1) any areas above the finished ceiling or integrated ceiling systems, or below the finished floor coverings that are not part of the Leasehold Improvements, (2) janitor's closets, (3) stairways and stairwells to be used for emergency exiting or as Common Areas, (4) rooms for Mechanical Systems or connection of telecommunication equipment, (5) vertical transportation shafts, (6) vertical or horizontal shafts, risers, chases, flues or ducts, and (7) any easements or rights to natural light, air or view.
- (c) Common Areas - "Shared Space". "Shared Space" shall mean that portion of the Common Areas as defined above that are necessary for the continuing conduct of Tenant's Use, including the pick-up/drop off areas located outside of the Building and the parking facilities located within the Project except for those parking facilities or parking spaces that are from time to time designated or reserved by Sublandlord for the exclusive use of a subtenant or other occupant of the Building or visitors. Notwithstanding anything to the contrary contained in this Sublease, Sublandlord shall not be required to maintain Common Areas that do not constitute Shared Space. Pursuant to Section 7.2 of the Sublease, Sublandlord shall be responsible for maintaining the Shared Space. Pursuant to Section 7.2 of the Sublease, except in an emergency, Sublandlord will use commercially reasonable efforts to avoid disrupting Subtenant's permitted use of the Premises in maintaining the Shared Space, including providing alternative access to the Premises if the performance of such maintenance would otherwise prohibit access to the Premises, but shall not be required to employ premium labor.

**2.6 Building Standard.** "Building Standard" means the minimum or exclusive type, brand, quality or quantity of materials Sublandlord designates for use in the Building from time to time. No changes to the Building Standard which would materially affect Subtenant shall be made by Sublandlord without the consent of Subtenant, which consent may not be unreasonably withheld.

**2.7 Subtenant's Personal Property.** "Subtenant's Personal Property" means those trade fixtures, furnishings, equipment, work product, inventory, stock-in-trade and other personal property of Subtenant that are not permanently affixed to the Project in a way that they become a part of the Project and will not, if removed, impair the value of the Leasehold Improvements that Subtenant is required to deliver to Sublandlord at the end of the Term under §3.3.

**2.8 Gymnasium Building.** "Gymnasium Building" means that certain building contemplated to be built on the Land that will be used as a gymnasium and initially subleased to Subtenant pursuant to a separate Sublease, including all improvements (including HVAC, electrical, gas, telecommunications and sprinkler systems) in such building.

### 3. TERM

**3.1 Term.** "Term" means the period that begins on the Commencement Date and ends on the Expiration Date, subject to renewal, extension or earlier termination as may be further provided in this Sublease. "Month" means a full calendar month of the Term. If the Commencement Date does not fall on the first day of a month, the initial period from the Commencement Date to the last day of such month shall be the "Partial Month". Notwithstanding anything to the contrary contained in this Sublease, in the event the term of the Prime Lease terminates prior to the expiration or earlier termination of this Sublease, then this Sublease shall terminate simultaneously with the termination of the Prime Lease without any liability of Sublandlord to Subtenant.

(a) **Commencement Date.** The "Commencement Date" means the date that is the earlier of:

- (1) The day that Subtenant first conducts business in any part of the Premises; or
- (2) The later of:
  - (A) The Scheduled Commencement Date, and
  - (B) The day that Sublandlord tenders possession of the Premises to Subtenant with the Tenant Improvements Substantially Complete (defined in Work Letter) or that date that Sublandlord would have tendered possession of the Premises but for delay caused by Subtenant.

(b) **Expiration Date.** "Expiration Date" means December 31, 2016.

(c) **Early Occupancy.** Subtenant may not enter the Premises for any purpose until Sublandlord tenders the Premises to Subtenant. If Subtenant conducts business in any part of the Premises before the Scheduled Commencement Date, Subtenant will pay Base and Additional Rent for that period at the rate for the first Month that such Rent is due, without discount or excuse.

(d) **Late Occupancy.** If Sublandlord fails to tender possession of the Premises to Subtenant by the Scheduled Commencement Date, Sublandlord will not be in default of this Sublease. Sublandlord will furnish Subtenant with monthly progress reports showing the status of the construction of the Tenant Improvements and other alterations and improvements to the Project and any material variances from the construction schedule therefor. If at any time it becomes readily apparent that delays in the construction of the Tenant Improvements or other alterations or improvements to the Project will prevent the Sublandlord from tendering possession of the Premises by a date that will allow the middle school and high school to open within the Premises by September 8, 2009, Sublandlord will use its best efforts to identify temporary alternative premises from which a middle school and high school can be operated until the Commencement Date has occurred.

(e) **Confirmation of Term.** Sublandlord shall notify Subtenant of the Commencement Date using a Notice of Sublease Term ("NLT") in the form attached to this Sublease as Exhibit E. Subtenant shall execute and deliver to Sublandlord the NLT within 10 business days after its receipt, but Subtenant's failure to do so will not reduce Subtenant's obligations or Sublandlord's rights under this Sublease.

- (f) Union Labor. Notwithstanding anything to the contrary contained in this Sublease, Subtenant shall utilize union labor for Subtenant's initial installation of equipment, fixtures and furniture (including Subtenant's Wiring), regardless of whether such installation occurs before or after the Commencement Date.

**3.2 Holdover.** If Subtenant keeps possession of the Premises after the Expiration Date (or earlier termination of this Sublease), without Sublandlord's prior written consent (a "Holdover"), which may be withheld in its sole discretion, then in addition to the remedies available elsewhere under this Sublease or by law, Subtenant will be a tenant-at-sufferance and must comply with all of Subtenant's obligations under this Sublease, except that for each Month of any Holdover, Subtenant will pay 150% of the Base Rent payable for the last Month of the Term (or that would have been payable but for abatement or excuse), without proration for any partial Month of Holdover. Subtenant shall indemnify and defend Sublandlord from and against all claims and damages, both consequential and direct, that Sublandlord suffers due to Subtenant's failure to return possession of the Premises to Sublandlord at the end of the Term. Sublandlord's deposit of Subtenant's Base Rent payment during any Holdover will not constitute Sublandlord's consent to a Holdover, or create or renew any tenancy.

**3.3 Condition on Expiration.**

- (a) Return of the Premises. At the end of the Term, Subtenant will return possession of the Premises to Sublandlord vacant, free of Subtenant's Personal Property, in broom-clean condition, and with all Leasehold Improvements in good working order and repair (excepting ordinary wear and tear). In addition, Sublandlord may require Subtenant, by notice at least 30 days before the expiration of the Term, to remove (and restore the Premises damaged by removal of) (i) any Subtenant's Wiring, or (ii) any item of Leasehold Improvements or Alterations that Sublandlord required to be removed (or reserved the right to so require) at the time of approval of the installation of same or for which Subtenant failed to obtain Sublandlord's written consent under §8.1(a).
- (b) Correction by Sublandlord. If Subtenant fails to return possession of the Premises to Sublandlord in the condition required under (a), then Subtenant shall reimburse Sublandlord for the costs incurred by Sublandlord to put the Premises in the condition required under (a), plus an administration fee of five percent (5%) of such costs.
- (c) Abandoned Property. Subtenant's Personal Property left behind in the Premises after the end of the Term will be considered abandoned. Sublandlord may move, store, retain or dispose of these items at Subtenant's expense, plus an administration fee of five percent (5%) of such expenses.

**3.4 Effectiveness of Sublease.** The effectiveness of this Sublease is contingent upon Prime Landlord obtaining financing for the renovation and improvement of the Project (including the Tenant Improvements) on terms and conditions satisfactory to Prime Landlord in its sole discretion, including but not limited to tax credits, other public incentives, private equity and debt financing. If Sublandlord fails to give Subtenant written notice by October 1, 2008, as such date may be extended in writing by Sublandlord and Subtenant, that such contingency has been satisfied, either party may terminate this Sublease by giving written notice to the other party at any time prior to the time that Sublandlord gives Subtenant written notice that such contingency has been satisfied. The effectiveness of this Sublease is also contingent upon Subtenant, as sublandlord, and Creative Urban Education, Inc. ("CUE"), as subtenant, entering into a sublease of the Premises. If such contingency is not satisfied by October 1, 2008, as such date may be extended in writing by Sublandlord and Subtenant, either party may terminate this Sublease by giving written notice to the other party at any time prior to the satisfaction of this contingency. Upon any termination of this Sublease pursuant to this Section 3.4, neither party shall have any further obligations or liabilities under this Sublease.

**4. RENT**

**4.1 Base Rent.** During the Term, Subtenant shall pay all Base Rent in advance, in equal Monthly installments, on the Commencement Date and thereafter by the 1<sup>st</sup> of each Month. Base Rent for any Partial Month will be prorated.

**4.2 Additional Rent.** Subtenant's obligation to pay Expenses and Net Direct Cafeteria Costs under this §4.2 is referred to in this Sublease as "Additional Rent."

- (a) Expenses. For each calendar year or partial calendar year falling within the Term, Subtenant shall pay, in the manner described below, Subtenant's Share of the Expenses for such calendar year or partial calendar year. "Expenses" mean Taxes (as defined below) and the total costs incurred by Sublandlord to operate, manage, administer, equip, secure, protect, repair, replace, refurbish, improve, clean, maintain, decorate and inspect the Project, regardless of whether or not such costs constitute capital expenditures. Expenses that vary with occupancy will be calculated as if the Building is 100% occupied and operating and all such services are provided to all subtenants. If any of the foregoing costs are incurred with respect to both the Project and the Gymnasium Building, Expenses shall not include those portions of such costs that Sublandlord reasonably allocates to the Gymnasium Building.

(1) Expenses include but are not limited to :

- (A) Standard Services provided under §6.1;
- (B) Replacements, repairs and maintenance performed under §7.2;
- (C) Insurance maintained under §9.2 (including deductibles paid);
- (D) Wages, salaries and benefits of personnel (i) to the extent they render services to the Project, as reasonably determined by Sublandlord, and (ii) are not above the position of Director of Facilities, provided, however, that Expenses shall not include that portion of any such wages, salaries and benefits that are attributable to services provided to other subtenant spaces and not to the Premises ;
- (E) Costs of operating the Project management office (including reasonable rent);
- (F) Costs incurred to comply with insurance requirements or laws; and
- (G) The fees and costs payable to a third party property manager.

(2) Expenses exclude:

- (A) Mortgage payments (principal and interest), and rent payable under the Prime Lease other than rent consisting of amounts payable with respect to taxes, insurance premiums or other expenses relating to the Project (or escrows for any taxes, insurance premiums or other expenses);
- (B) Commissions, advertising costs, attorney's fees and costs of improvements in connection with leasing space in the Building;
- (C) Costs reimbursed by insurance proceeds or subtenants of the Building (other than as Additional Rent);
- (D) Depreciation;
- (E) Except for the costs identified in §4.2(b)(1)(F), that portion of the Replacement Costs (as defined below) that are paid by the expenditure of funds from the capital replacement reserve for the Project maintained by Sublandlord. "Replacement Costs" means costs of replacements of portions of the Project required to be capitalized according to sound real estate accounting and management principles, consistently applied;
- (F) Collection costs and legal fees paid in disputes with subtenants;
- (G) Costs to maintain and operate the entity that is Sublandlord (as opposed to operation and maintenance of the Project);
- (H) The Direct Cafeteria Costs. The "Direct Cafeteria Costs " shall mean (i) all sums payable to a third party operator of the cafeteria to be located within the Building ("Cafeteria"), (ii) to the extent not paid to such third party operator, the cost of all materials, supplies and equipment used directly in the operation of the Cafeteria, and (iii) the cost of electricity and gas furnished to the Cafeteria

which, if not separately submetered, will be reasonably determined by Sublandlord;

- (I) The cost of electricity and gas furnished to other subtenant spaces in the Building, including electricity consumed in operating the heat pumps that furnish air conditioning and heat to such other subtenant spaces;
- (J) Janitorial services provided to the Premises or other subtenant spaces in the Building; and
- (K) Costs incurred solely at the request of, or solely for the benefit of, another subtenant or subtenants.

In no event shall Expenses be reduced by, and Subtenant shall not be entitled to receive all or any portion of, any sums paid by a third party operating the Cafeteria or any other revenues or income derived from the operation of the Cafeteria.

"Taxes" mean (1) real and personal property taxes and assessments (including ad valorem and special assessments) levied on the Project and Sublandlord's personal property used in connection with the Project; (2) taxes on rents or other income derived from the Project; (3) capital and place-of-business taxes; (4) taxes, assessments or fees in lieu of the taxes described in (1-3); and (5) the reasonable costs incurred to reduce the taxes described in (1-4). Taxes exclude net income taxes and taxes paid under §4.3. Subtenant shall be entitled to receive Subtenant's Share of reimbursement payments received by Sublandlord pursuant to that certain Reimbursement Agreement between Prime Sublandlord and the City of Detroit Brownfield Redevelopment Authority that are attributable to Taxes for a calendar year or partial calendar year falling within the Term. Subtenant's Share of any such reimbursement payment shall be applied by Sublandlord to Additional Rent next becoming due until fully applied or if this Sublease has terminated and no Additional Rent is or will become due, remitted to Subtenant. Taxes shall not include that portion of the Taxes described in (1) and (4) above that is attributable to the Gymnasium Building, as reasonably determined by Sublandlord.

- (b) Net Direct Cafeteria Costs. For each Lease Year, Subtenant shall pay, in the manner described below, Subtenant's Cafeteria Share (as defined below) of the Net Direct Cafeteria Costs for the Lease Year. "Net Direct Cafeteria Costs" means the amount, if any, by which the Direct Cafeteria Costs for a Lease Year exceed the Cafeteria Revenues for such Lease Year. "Cafeteria Revenues" means the sums received by Sublandlord from a third party operating the Cafeteria and any other revenues received by Sublandlord that are derived from the operation of the Cafeteria. If the Cafeteria Revenues for any Lease Year exceed the Direct Cafeteria Costs for such Lease Year, Subtenant's Cafeteria Share of such excess shall be applied by Sublandlord to Additional Rent next becoming due until fully applied or if this Sublease is terminated and no Additional Rent is or will become due, remitted to Subtenant. "Subtenant's Cafeteria Share" means (i) if CUE or a successor or assignee thereof is subleasing all or a portion of the Premises, the percentage that Sublandlord, acting reasonably and in good faith, determines annually (or on a more frequent basis if Sublandlord so elects) reflects the estimated usage of the Cafeteria by CUE or its successor or assignee thereof and all the occupants of the Premises and their respective agents, contractors, employees and invitees (including students) in relation to the total estimated usage of the Cafeteria by all such persons or entities and their respective agents, contractors, employees and invitees (including students) and the College for Creative Studies and its agents, contractors, employees and invitees (including students); (ii) if CUE or its successor or assignee thereof is not subleasing any portion of the Premises and one or more persons or entities (including Subtenant or any successor or assignee thereof) are occupying all or any portion of the Premises, the percentage that Sublandlord and Subtenant, acting reasonably and in good faith, agree reflects the estimated usage of the Cafeteria by all such persons or entities and their respective agents, contractors, employees and invitees (including students) in relation to the total estimated usage of the Cafeteria by all such persons or entities and their respective agents, contractors, employees and invitees and the College for Creative Studies and its agents, contractors, employees and invitees (including students), or (iii) zero percent (0%) if no portion of the Premises is occupied by any person or entity. If (ii) of this subsection (b) is applicable, no person or entity occupying the Premises or any portion thereof

may use or have access to the Cafeteria until such time as Sublandlord and Subtenant have agreed upon Subtenant's Cafeteria Share.

- (c) **Estimates.** Sublandlord will reasonably estimate Additional Rent each calendar year that Additional Rent may be payable. Subtenant will pay the estimated Additional Rent in advance, in equal monthly installments, by the first day of each Month. Sublandlord may reasonably revise its estimate during a calendar year and Subtenant will pay the monthly installments based on the revised estimate, commencing 30 days following the date of such revision. In addition, if Sublandlord incurs an Expense not anticipated by Sublandlord, Sublandlord may invoice Subtenant for Subtenant's share of such Expense (a "Special Assessment"), and Subtenant shall pay Subtenant's share of such Special Assessment within thirty (30) days after Subtenant's receipt of such invoice. The aggregate estimates of Additional Rent and all Special Assessments payable by Subtenant in a calendar year are the "Estimated Additional Rent."
- (d) **Settlement.** As soon as practical after the end of each calendar year that Additional Rent is payable, Sublandlord will give Subtenant a statement of the actual Additional Rent for the calendar year. The statement of Additional Rent is conclusive, binds Subtenant, and Subtenant waives all rights to contest the statement, except for items of Additional Rent to which Subtenant objects by notice to Sublandlord given within 90 days after receipt of Sublandlord's statement; however, Subtenant's objection will not relieve Subtenant from its obligation to pay Additional Rent pending resolution of any objection. If the Additional Rent exceeds the Estimated Additional Rent for the calendar year, Subtenant shall pay the difference to Sublandlord in a lump sum as Rent within 30 days after receipt of Sublandlord's statement of Additional Rent. If the Estimated Additional Rent paid by Subtenant exceeds the Additional Rent for the calendar year, then Sublandlord shall credit the overpayment against Rent next due. However, if the Term ends during a calendar year, Sublandlord may, in Sublandlord's sole discretion, elect to either: (1) forego the settlement of Additional Rent for the calendar year that is otherwise required and accept the Subtenant's payment of Estimated Additional Rent for such calendar year in satisfaction of Subtenant's obligations to pay Additional Rent for the final calendar year, or (2) have Sublandlord's and Subtenant's obligations under this §4.2(e) survive the end of the Term.

**4.3 Other Taxes.** Upon demand, Subtenant will reimburse Sublandlord for taxes paid by Sublandlord on (a) Subtenant's Personal Property, (b) Rent, (c) Subtenant's occupancy of the Premises, or (d) this Sublease. If Subtenant cannot lawfully reimburse Sublandlord for these taxes, then the Base Rent will be increased to yield to Sublandlord the same amount after these taxes were imposed as Sublandlord would have received before these taxes were imposed.

**4.4 Terms of Payment.** "Rent" means all amounts payable by Subtenant under this Sublease and the exhibits, including Base Rent, Additional Rent, Premises Janitorial Rent (as hereinafter defined) and Utility Rent (as hereinafter defined). If a time for payment of an item of Rent is not specified in this Sublease, then Subtenant will pay Rent within 30 days after receipt of Sublandlord's statement or invoice. Unless otherwise provided in this Sublease, Subtenant shall pay Rent without notice, demand, deduction, abatement or setoff, in lawful U.S. currency, at Sublandlord's Billing Address. Sublandlord will send invoices payable by Subtenant to Subtenant's Billing Address; however, neither Sublandlord's failure to send an invoice nor Subtenant's failure to receive an invoice for Base Rent (and installments of Estimated Additional Rent, estimated Premises Janitorial Rent or estimated Utility Rent) will relieve Subtenant of its obligation to timely pay Base Rent (and installments of Estimated Additional Rent, estimated Premises Janitorial Rent or estimated Utility Rent). Each partial payment by Subtenant shall be deemed a payment on account. No endorsement or statement on any check or any accompanying letter shall constitute an accord and satisfaction, affect Sublandlord's right to collect the full amount due, or require Sublandlord to apply any payment to other than Rent earliest due. No payment by Subtenant to Sublandlord will be deemed to extend the Term or render any notice, pending suit or judgment ineffective. By notice to the other, each party may change its Billing Address. Any payment made by Subtenant to a lockbox maintained by Sublandlord for receipt of payment of Rent shall not be deemed to have been accepted by Sublandlord provided such payment is returned to Subtenant within ten (10) days after Sublandlord receives notice that the payment has been received into the lockbox.

**4.5 Late Payment.** If Sublandlord does not receive all or part of any item of Rent when due, then Subtenant shall pay Sublandlord a "Late Charge" of 5% of the overdue amount. Subtenant agrees that the Late

Charge is not a penalty, and will compensate Sublandlord for costs not contemplated under this Sublease that are impracticable or extremely difficult to fix. Sublandlord's acceptance of a Late Charge does not waive Subtenant's default.

**4.6 Description of Various Expenses and Allocation Methodology.** Attached hereto as Exhibit G is a chart which describes various components of Rent or other expenses that the Subtenant is or may incur pursuant to this Sublease, identifies certain services Subtenant may directly contract for with a third party provider in lieu of such services being provided by Sublandlord, and the methodology by which such components of Rent or costs are allocated to Subtenant. Exhibit G is for illustrative purposes only and does not, and is not intended to, identify all components of Rent or costs that may be payable or incurred by Subtenant pursuant to this Sublease. Further, Exhibit G does not, and is not intended to, expand or otherwise alter any of the obligations of Sublandlord or Subtenant under this Sublease or otherwise modify or amend any of the terms or provisions of this Sublease and in the event of a conflict between Exhibit G and this Sublease, this Sublease shall control.

## **5. USE & OCCUPANCY**

**5.1 Use.** Subtenant shall use and occupy the Premises only for the Use and for no other purpose without Sublandlord's written consent, which consent may be withheld in Sublandlord's sole and absolute discretion. Sublandlord does not represent or warrant that the Project is suitable for the conduct of Subtenant's particular business.

### **5.2 Compliance with Laws and Directives.**

(a) Subtenant's Compliance. Subject to the remaining terms of this Sublease, Subtenant shall comply at Subtenant's expense with all directives of Sublandlord's insurers, governing authorities or laws concerning:

- (1) The Leasehold Improvements and Alterations,
- (2) Subtenant's use or occupancy of the Premises,
- (3) Subtenant's employer/employee obligations,
- (4) A condition created by Subtenant, or its Affiliates, or any of their respective agents, employees, contractors, or invitees,
- (5) Subtenant's failure to comply with this Sublease,
- (6) The negligence of Subtenant or its Affiliates or any of their respective agents, employees, invitees or contractors, or
- (7) Any chemical wastes, contaminants, pollutants or substances that are hazardous, toxic, infectious, flammable or dangerous, or regulated by any local, state or federal statute, rule, regulation or ordinance for the protection of health or the environment, including but not limited to any applicable provisions under the Natural Resources and Environmental Protection Act of 1994 (Act 451), Part 201, including the Administrative Rules promulgated thereunder as most recently amended on December 21, 2002 ("Hazardous Materials") that are introduced to the Project, handled or disposed by Subtenant or its Affiliates, or any of their respective agents, employees, invitees or contractors.

(b) Environmental Provisions.

- (1) Subtenant shall not "treat", "store" or "dispose" of any "hazardous substances," "hazardous wastes" or "toxic substances" as those terms are defined under CERCLA, 42 U.S.C. 9601, et seq., RCRA 42 U.S.C. 6901, et seq., or TSCA, 15 U.S.C. 2601, et seq., or under similar Michigan law on, at or below the Premises or Project.
- (2) Use of ground water at, in or under the Project, including potable and non-potable uses, is prohibited.



- (c) Sublandlord's Compliance. The cost of Sublandlord's compliance with all directives of Sublandlord's insurers, governing authorities or laws concerning the Project, other than those that are Subtenant's obligation under subsection (a), will be included in Expenses.

**5.3 Occupancy.** Subtenant shall not interfere with Building services or other subtenants' rights to quietly enjoy their respective premises or the Common Areas. Subtenant shall not make or continue a nuisance, including any objectionable odor, noise, fire hazard, vibration, or wireless or electromagnetic transmission. Subtenant will not maintain any Leasehold Improvements or use the Premises in a way that increases the cost of insurance required under §9.2, or requires insurance in addition to the coverage required under §9.2.

## **6. SERVICES & UTILITIES**

### **6.1 Standard Services.**

- (a) Standard Services Defined. "Standard Services" mean:

- (1) Heating, ventilation and air-conditioning ("HVAC") during Business Hours (and, with respect to the Premises, during any non-Business Hours if Subtenant furnishes Sublandlord with a request therefor at least twenty-four (24) hours prior to the commencement of such non-Business Hours) as reasonably required to comfortably use and occupy the Premises and interior Common Areas;
- (2) Tempered water from the public utility for use in Common Areas rest rooms and rest rooms and kitchen areas located within the Premises;
- (3) Janitorial services to the interior Common Areas 5 days a week, except Holidays, to the extent reasonably determined by Sublandlord;
- (4) Access to the Premises (by at least 1 passenger elevator if not on the ground floor); and
- (5) Electricity from Sublandlord's selected provider(s) for Common Areas lighting, Building Standard light fixtures in the Premises and to convenience outlets in the Premises for the operation of customary quantities and types of office equipment, however, the connected load in the Premises will not at any time exceed 5 watts per RSF of the Premises.

- (b) Standard Services Provided. During the Term, Sublandlord shall provide the Standard Services to Subtenant, except as provided in this Article 6. The cost of the Standard Services is included in Expenses except for the cost of electricity and gas separately submetered to subtenant spaces and the cost of electricity and gas included within the definition of Direct Cafeteria Costs. Sublandlord is not responsible for any inability to provide Standard Services due to either: the concentration of personnel or equipment in the Premises; or Subtenant's use of equipment in the Premises that is not customary office equipment, has special cooling requirements, or generates heat.

**6.2 Additional Services.** Unless Subtenant obtains Sublandlord's prior written consent, Subtenant will not use utilities or services in excess of the Standard Services. If Sublandlord so consents, Sublandlord may provide utilities and services in excess of the Standard Services subject to the following:

- (a) Lighting. Sublandlord will furnish both Building Standard and non-Building Standard lamps, bulbs, ballasts and starters that are part of the Leasehold Improvements for purchase by Subtenant at Sublandlord's cost, plus Sublandlord's administration fee of 5%. Sublandlord will install Building Standard and non-Building Standard items at Sublandlord's scheduled rate for this service.
- (b) Other Utilities and Services. Subtenant will pay as Rent the actual cost of utilities or services (other than lighting addressed in (a)) either used by Subtenant or provided at Subtenant's request in excess of that provided as part of the Standard Services, plus Sublandlord's administration fee of 5%. Subtenant's excess consumption may be estimated by Sublandlord unless either Sublandlord requires or Subtenant elects to install Building Standard meters to measure Subtenant's consumption.



- (c) Additional Systems and Metering. Sublandlord may require Subtenant, at Subtenant's expense, to upgrade or modify existing Mechanical Systems serving the Premises or the Leasehold Improvements to the extent necessary to meet Subtenant's excess requirements (including installation of Building Standard meters to measure the same).
- (d) Premises Janitorial Services. Sublandlord shall provide Subtenant with a schedule of janitorial services that Sublandlord is willing to provide to the Premises and the charges therefor, which services and charges may be modified from time to time by Sublandlord. Sublandlord shall furnish those services set forth in the schedule which Subtenant elects from time to time to have Sublandlord furnish and Subtenant shall pay to Sublandlord as Rent, in the manner described below, the charges for the janitorial services selected by Subtenant ("Premises Janitorial Rent"). Sublandlord will reasonably estimate the Premises Janitorial Rent each calendar year that Premises Janitorial Rent may be payable. Subtenant will pay the estimated Premises Janitorial Rent in advance, in equal monthly installments, on the first day of each month, subject to adjustments as provided below. Sublandlord may reasonably revise this estimate during the calendar year and Subtenant will pay the monthly installments based on the revised estimate, commencing 30 days following the date of such revision, subject to adjustments provided below. Within a reasonable period of time after the end of each calendar quarter, Sublandlord shall determine the actual Premises Janitorial Rent for such calendar quarter and shall furnish Subtenant with an invoice reflecting the actual Premises Janitorial Rent for such period. If the actual Premises Janitorial Rent for such period exceeds the aggregate amount of the estimated installments of Premises Janitorial Rent for such period, Subtenant shall pay an amount equal to such excess with the next installment of estimated Premises Janitorial Rent that becomes due. If the aggregate amount of installments of estimated Premises Janitorial Rent for such period exceeds the actual Premises Janitorial Rent for such period, the excess shall be credited against the next installment of estimated Premises Janitorial Rent that becomes due.

**6.3 Utilities Billing.** Subtenant's total consumption of electricity in the Premises, including lighting, and convenience outlets, electricity consumed in operating the heat pumps that furnish air conditioning and heat to the Premises, and gas furnished to the Premises shall be separately submetered to the Premises. Subtenant shall pay to Sublandlord as Rent, in the manner described below, the actual cost of all such electricity and gas based on readings of such submeters by Sublandlord ("Utility Rent"). Sublandlord will reasonably estimate Utility Rent each calendar year that Utility Rent may be payable. Subtenant will pay the estimated Utility Rent in advance, in equal monthly installments, by the first day of each month, subject to adjustment as provided below. Sublandlord may reasonably revise this estimate during a calendar year and Subtenant will pay the monthly installments based on the revised estimate, commencing thirty (30) days following the date of such revision, subject to adjustment as provided below. Based on monthly readings of the submeters by Sublandlord, Sublandlord shall determine the actual Utility Rent for each calendar quarter and shall furnish Subtenant with an invoice reflecting the actual Utility Rent for such period. If the actual Utility Rent for such period exceeds the aggregate amount of installments of estimated Utility Rent for such period, Subtenant shall pay an amount equal to such excess with the next installment of estimated Utility Rent that becomes due. If the aggregate amount of installments of estimated Utility Rent for such period exceeds the actual Utility Rent for such period, the excess shall be credited against the next installment of estimated Utility Rent that becomes due.

**6.4 Telecommunication Services.** Subtenant will contract directly with third party providers and will be solely responsible for paying for all telephone, data transmission, video and other telecommunication services ("Telecommunication Services") subject to the following:

- (a) Providers. Each Telecommunication Services provider that does not already provide service to the Building shall be subject to Sublandlord's approval, which Sublandlord may withhold in Sublandlord's reasonable discretion. Without liability to Subtenant, the license of any Telecommunication Services provider servicing the Building may be terminated under the terms of the license, or not renewed upon the expiration of the license. Notwithstanding the foregoing, at all times during the term of this Sublease, there shall be Sublandlord approved providers of all Telecommunication Services to the Building.
- (b) Subtenant's Wiring. Sublandlord may, in its sole discretion, designate the location of all wires, cables, fibers, equipment, and connections ("Subtenant's Wiring") for Subtenant's

Telecommunication Services, and restrict and control access to telephone cabinets and rooms. Subtenant may not use or access the Base Building, Common Areas or roof for Subtenant's Wiring without Sublandlord's prior written consent, which Sublandlord may withhold in Sublandlord's sole discretion, or for which Sublandlord may charge a fee determined by Sublandlord.

- (c) No Beneficiaries. This §6.4 is solely for Subtenant's benefit, and no one else shall be considered a beneficiary of these provisions.

**6.5 Special Circumstances.** Without breaching this Sublease or creating any liability on the part of Sublandlord, Sublandlord may interrupt, limit or discontinue any utility or services Sublandlord provides under this Article 6 or which are obtained by Subtenant under this Article 6 under any of the following circumstances: (a) in an emergency; (b) to comply with laws or to conform to voluntary government or industry guidelines; (c) to repair and maintain the Project under §7.2; or (d) to modify, renovate or improve the Project under §8.2. Sublandlord shall not be liable in any manner for any interruption in services to be provided by Sublandlord or obtained by Subtenant under this Article 6; provided, however, that in the event of anticipated disruptions in any of the foregoing services that may result from the activities of Sublandlord or its agents described above, Subtenant shall be given as much notice as is reasonably practical of the anticipated interruption of such service.

## **7. REPAIRS**

**7.1 Subtenant's Repairs.** Except as provided in Articles 10 and 12, during the Term Subtenant shall, at Subtenant's cost, repair, maintain and replace, if necessary, the Leasehold Improvements and keep the Premises in good order, condition and repair. Subtenant's work under this §7.1 must be (a) approved by Sublandlord before commencement, (b) supervised by Sublandlord at Subtenant's expense, if Sublandlord reasonably so requires, and (c) performed in compliance with law and in a first-class manner with materials of at least Building Standard. If Subtenant fails to perform any of its obligations under this §7.1, then Sublandlord may perform such obligations and Subtenant will pay as Rent to Sublandlord the cost of such performance, including an amount sufficient to reimburse Sublandlord for overhead and supervision, within 10 days after the date of Sublandlord's invoice. For purpose of performing such obligations, or to inspect the Premises, Sublandlord may enter the Premises upon not less than two days' prior notice to Subtenant (except in cases of actual or suspected emergency, in which case no prior notice will be required) without liability to Subtenant for any loss or damage incurred as a result of such entry, provided that Sublandlord will take reasonable steps in connection with such entry to minimize any disruption to Subtenant's business or its use of the Premises. Subtenant will notify Sublandlord promptly after Subtenant learns of (x) any fire or other casualty in the Premises, (y) any damage to or defect in the Premises, including the fixtures and equipment in the Premises, for the repair of which Sublandlord might be responsible, and (z) any damage to or defect in any parts or appurtenances of the Building's sanitary, electrical heating, air conditioning, elevator or other systems located in or passing through the Premises.

**7.2 Sublandlord's Repairs.** Except as provided in Articles 10 and 12, during the Term Sublandlord shall repair, maintain and replace, if necessary, all parts of the Project that are not Subtenant's responsibility under §7.1, or any other subtenant's responsibility under their respective sublease, including periodic washing of the exterior side of exterior windows of the Building, and otherwise keep the Project in good order and condition according to the standards prevailing for comparable buildings in the area in which the Building is located. Except in an emergency, Sublandlord will use commercially reasonable efforts to avoid disrupting Subtenant's permitted Use of the Premises in performing Sublandlord's duties under this §7.2, but shall not be required to employ premium labor. Subtenant may not repair or maintain the Project on Sublandlord's behalf or offset any Rent for any repair or maintenance of the Project that is undertaken by Subtenant.

## **8. ALTERATIONS**

**8.1 Alterations by Subtenant.** "Alterations" mean any modification, addition or improvement to the Premises or Leasehold Improvements made by Subtenant, including any modification to the Base Building or Common Areas required by law or governing authority as a condition of performing the work. Alterations do not include work performed under a Work Letter that is part of this Sublease. Alterations are made at Subtenant's sole cost and expense, subject to the following:

- (a) Consent Required. All Alterations require Sublandlord's prior written consent. If a Design Problem exists, Sublandlord may withhold its consent in Sublandlord's sole discretion; otherwise,

Sublandlord will not unreasonably withhold its consent. Unless Subtenant obtains Sublandlord's prior written consent to the Alterations becoming part of the Premises to be tendered to Sublandlord on termination of the Sublease, Sublandlord may require Subtenant to remove Alterations and restore the Premises under §3.3 upon termination of this Sublease.

- (b) Design Problem Defined. "Design Problem" means a condition that results, or will result, from work proposed, being performed or that has been completed that either:
- (1) Does not comply with laws;
  - (2) Does not meet or exceed the Building Standard;
  - (3) Exceeds the capacity, adversely affects, is incompatible with, or impairs Sublandlord's ability to maintain, operate, alter, modify or improve the Base Building;
  - (4) Affects the exterior appearance of the Building or Common Areas;
  - (5) Violates any agreement affecting the Project;
  - (6) Costs more to demolish than Building Standard improvements;
  - (7) Violates any insurance regulations or standards for a fire-resistive office building;
  - (8) Causes a "work of visual art" to become "incorporated in or made part of a building" (as defined in the Visual Artists Rights Act of 1990, "VARA"); or
  - (9) Locates any equipment, Subtenant's Wiring or Subtenant's Personal Property on the roof of the Building, in Common Areas or in telecommunication or electrical closets.
- (c) Performance of Alterations. Alterations shall be performed by Subtenant in a good and workmanlike manner according to plans and specifications approved by Sublandlord. All Alterations shall comply with law and insurance requirements. Sublandlord's designated contractors must perform Alterations affecting the Base Building or Mechanical Systems; and, all other work will be performed by qualified contractors that meet Sublandlord's insurance requirements and are otherwise approved by Sublandlord. Promptly after completing Alterations, Subtenant will deliver to Sublandlord "as-built" CAD plans, proof of payment, and unconditional waivers of lien from all contractors, subcontractors, sub-subcontractors and suppliers.
- (d) Bonding. If requested by Sublandlord, before commencing Alterations Subtenant shall at Subtenant's cost obtain bonds, or deposit with Sublandlord other security acceptable to Sublandlord for the payment and completion of the Alterations. These bonds or other security shall be in form and amount acceptable to Sublandlord.
- (e) Alterations Fee. Subtenant shall pay Sublandlord, as Rent, the commercially reasonable hourly rates charged from time to time by Sublandlord for personnel to review Subtenant's plans for, and coordinate construction of, any Alterations ("Alterations Fee"), provided, however, that if the total cost of any such Alterations will exceed \$100,000, the Alterations Fee with respect to such Alterations shall not exceed two percent (2%) of the total cost of such Alterations. In addition, Subtenant shall reimburse Sublandlord for the actual cost that Sublandlord reasonably incurs to have engineers, architects or other professional consultants review Subtenant's plans and work in progress, or inspect the completed Alterations.

**8.2 Alterations by Sublandlord.** Sublandlord may modify, renovate or improve the Project as Sublandlord deems appropriate, provided Sublandlord uses commercially reasonable efforts to avoid disrupting Subtenant's permitted Use of the Premises.

**8.3 Liens and Disputes.** Subtenant will keep title to the Project free of any liens concerning the Leasehold Improvements, Alterations, or Subtenant's Personal Property, and will promptly take whatever action is required to have any of these liens released and removed of record (including, as necessary, posting a bond or other deposit). To the extent legally permitted, each contract and subcontract for Alterations will provide that no lien attaches to or may be claimed against the Project. Subtenant will indemnify Sublandlord for costs and expenses that Sublandlord reasonably incurs because of Subtenant's violation of this §8.3.

## 9. INSURANCE

### 9.1 Subtenant's Insurance.

- (a) Subtenant's Coverage. Before taking possession of the Premises for any purpose (including construction of any Alterations, if any) and during the Term, Subtenant will provide and keep in force, or shall cause any subtenant of Subtenant to provide and keep in force, the following coverage:
- (1) Commercial general liability insurance insuring Subtenant's use and occupancy of the Premises and use of the Project, and covering personal and bodily injury, death, and damage to others' property of not less than the Liability Limit. Each of these policies shall include cross liability and severability of interests clauses, and be written on an occurrence, and not claims-made, basis. Each of these policies shall name Sublandlord, Prime Landlord, the Building property manager, each secured lender, and any other party reasonably designated by Sublandlord as an additional insured ("Additional Insured"). The commercial general liability insurance carried by Sublandlord or other Additional Insureds pursuant to the terms of this Sublease shall be non contributing and Subtenant's commercial general liability insurance shall be primary to any such insurance carried by Sublandlord or other Additional Insureds.
  - (2) All risk insurance (including standard extended coverage endorsement perils, leakage from fire protective devices and other water damage) covering the full replacement cost of the Leasehold Improvements and Subtenant's Personal Property. Each of these policies shall name Sublandlord and each Additional Insured as loss payee to the extent of their interest in the Leasehold Improvements. Each of these policies shall include a provision or endorsement in which the insurer waives its right of subrogation against Sublandlord and each Additional Insured.
  - (3) Insurance covering the perils described in (2) for Subtenant's loss of income or insurable gross profits with a limit not less than Subtenant's annual Rent.
  - (4) If any boiler or machinery is operated solely to provide service to the Premises, boiler and machinery insurance, with a limit of at least the Liability Limit.
  - (5) Insurance required by law, including workers' compensation insurance.
  - (6) Employers liability insurance with limits not less than \$1 million/each accident; \$1million/disease - each employee; \$1 million/disease - aggregate.
  - (7) Commercial automobile liability insurance covering all owned, hired, and non-owned vehicles with a combined single limit of not less than \$1 million for each accident or person.
  - (8) Insurance covering the Leasehold Improvements and Subtenant's Personal Property against loss or damage due to earthquake or difference in conditions perils. Subtenant may elect to self-insure this coverage. If Subtenant does not elect to self-insure this coverage, then each of these policies shall name Sublandlord and each Additional Insured a loss payee to the extent of their interest in the Leasehold Improvements.
- (b) Insurers and Terms. Each policy required under (a) shall be written with insurance companies licensed to do business in the state in which the Building is located having a rating of not less than A+ and a Financial Size Class ("FSC") of at least VIII by A. M. Best Company, and be on terms that are acceptable to Sublandlord.
- (c) Proof of Insurance. Subtenant shall provide Sublandlord with certificates of insurance or other reasonable proof that the coverage required under (a) is in effect. Subtenant will provide reasonable proof of renewal or replacement at least 30 days prior to any policy expiration. Failure of Subtenant to provide any insurance required by this Sublease shall not be construed as a waiver of liability or any limit of damages, the parties expressly agreeing that the requirement to carry insurance does not deem that said insurance is adequate to cover the damages so insured.

- (d) Waiver of Subrogation. Each policy required under (a) shall include a provision or endorsement in which the insurer waives its right of subrogation against Sublandlord and each Additional Insured.

**9.2 Sublandlord's Insurance.**

- (a) Sublandlord's Coverage. During the Term, Sublandlord will provide and keep in force the following coverage:

- (1) Commercial general liability insurance.
- (2) All risk insurance (including standard extended coverage endorsement perils, leakage from fire protective devices and other water damage) covering the Project improvements (excepting the Leasehold Improvements to be insured by Subtenant or other subtenants). Each of these policies shall include a provision or endorsement in which the insurer waives its right of subrogation against Subtenant.
- (3) Insurance covering the perils described in (2) for Sublandlord's loss of rental income or insurable gross profits. Each of these policies shall include a provision or endorsement in which the insurer waives its right of subrogation against Subtenant.
- (4) Boiler and machinery insurance.
- (5) Other insurance that Sublandlord elects to maintain.

- (b) Terms. Each of the policies required under (a) will have those limits, deductibles, retentions and other terms that Sublandlord prudently determines.

**10. DAMAGE OR DESTRUCTION**

**10.1 Damage and Repair.** If all or any part of the Project is damaged by fire or other casualty, then the parties will proceed as follows:

- (a) Sublandlord's Estimates. Sublandlord will assess the damage to the Project (but not the Leasehold Improvements) and notify Subtenant of Sublandlord's reasonable estimate of the time required to substantially complete repairs and restoration of the Project ("Repair Estimate"). Within 30 days after the later of the casualty, issuance of the Repair Estimate, receipt of any denial of coverage or reservation of rights from Sublandlord's insurer, or receipt of notice from the holder of any Encumbrance (as defined in § 14.2) that all or any portion of the insurance proceeds will be used to retire the debt secured by such Encumbrance, Sublandlord may terminate the Sublease by written notice to Subtenant if:

- (1) The Repair Estimate exceeds 270 days; or
- (2) The damage or destruction occurs in the last 12 Months of the Term; or
- (3) The repair and restoration is not fully covered by insurance maintained or required to be maintained by Sublandlord (subject only to those deductibles or retentions Sublandlord elected to maintain) or Sublandlord's insurer denies coverage or reserves its rights on coverage; or
- (4) The holder of any Encumbrance requires that all or a portion of the insurance proceeds be used to retire the debt secured by such Encumbrance or the damage is caused by a casualty not covered by the insurance required to be maintained by Sublandlord under § 9.2(a)(ii).

- (b) Repairs. If Sublandlord does not terminate the Sublease under (a), then the Sublease shall remain in full force and effect and the parties will proceed as follows:

- (1) Sublandlord will repair and restore the Project (but not Leasehold Improvements or any other improvements which any other subtenant is required to restore under its sublease) to the condition existing prior to such damage, except for modifications required by law. Sublandlord will perform such work with reasonable promptness, subject to delay for loss adjustment, delay caused by Subtenant and Force Majeure.

- (2) Subtenant will repair and restore the Leasehold Improvements with reasonable promptness to the condition existing prior to such damage, but not less than current Building Standards, except for modifications required by law.

**10.2 Rent Abatement.** If as a result of the damage or destruction under §10.1 any part of the Premises becomes Untenantable, which shall mean the Subtenant is actually unable to use all or any portion of the Premises in the normal conduct of its business, and Subtenant does not actually use the Untenantable part of the Premises for more than 3 consecutive business days, then Subtenant's Base Rent and Additional Rent for the Untenantable part of the Premises not used by Subtenant shall, to the extent Sublandlord receives the proceeds of loss of rental income insurance, be abated from the 4<sup>th</sup> consecutive business day until the earlier of the date (a) the damaged or destroyed part of the Premises becomes tenantable, or (b) 15 days after Sublandlord completes its required repairs and restoration. Subtenant's sole remedy against Sublandlord for damage or destruction of any part of the Project is abatement of Base Rent and Additional Rent under this §10.2, and Sublandlord will not be liable to Subtenant for any other amount, including damages to Subtenant's Personal Property, consequential damages, actual or constructive eviction, or abatement of any other item of Rent.

## **11. INDEMNITY**

**11.1 Claims.** "Claims" mean any and all liabilities, losses, claims, demands, damages or expenses that are suffered or incurred by a party, including attorneys' fees reasonably incurred by that party in the defense or enforcement of the rights of that party.

### **11.2 Sublandlord's Waivers and Subtenant's Indemnity.**

(a) Sublandlord's Waivers. Sublandlord waives any Claims against Subtenant and its Affiliates for perils insured or required to be insured by Sublandlord under subsections (2) and (3) of §9.2(a), except to the extent caused by the gross negligence or willful misconduct of Subtenant or its Affiliates.

(b) Subtenant's Indemnity. Unless waived by Sublandlord under §11.2(a), Subtenant will indemnify and defend Sublandlord and Prime Landlord and their respective Affiliates and hold each of them harmless from and against Claims arising from:

- (1) Any accident or occurrence on or about the Premises, except to the extent caused by Sublandlord's or Prime Landlord's or any of their respective Affiliate's gross negligence or willful misconduct; or
- (2) Subtenant's negligence or willful misconduct; or
- (3) Any claim for commission or other compensation by any person for services rendered to Subtenant in procuring this Sublease.

### **11.3 Subtenant's Waivers and Sublandlord's Indemnity.**

(a) Subtenant's Waivers. Subtenant waives any Claims against Sublandlord and Prime Landlord and their respective Affiliates for:

- (1) Perils insured or required to be insured by Subtenant under subsections (2), (3) and (8) of §9.1(a), except to the extent caused by the gross negligence or willful misconduct of Sublandlord or Prime Landlord or their respective Affiliates, but in all events Subtenant waives any Claims for any special or consequential damages (such as interruption of business, loss of income, or loss of opportunity); or
- (2) Damage caused by any public utility, public work, other subtenants or occupants of the Project, or persons other than Sublandlord or Prime Landlord; or
- (3) Damages in excess of the insurance Sublandlord maintains under §9.1.

(b) Sublandlord's Indemnity. Unless waived by Subtenant under (a), Sublandlord will indemnify and defend Subtenant and its Affiliates and hold each of them harmless from and against Claims arising from:

- (1) Sublandlord's gross negligence or willful misconduct; or

- (2) Any claim for commission or other compensation by any person for services rendered to Sublandlord in procuring this Sublease.

**11.4 Affiliates Defined.** "Affiliates" means with respect to a party (a) that party's partners, co-members and joint venturers, (b) each corporation or other entity that is a parent or subsidiary of that party, (c) each corporation or other entity that is controlled by or under common control of a parent of such party, and (d) the directors, officers, employees and agents of that party and each person or entity described in this §11.4(a-c).

**11.5 Survival of Waivers and Indemnities.** Sublandlord's and Subtenant's waivers and indemnities under §11.2 and §11.3 will survive the expiration or early termination of this Sublease.

## 12. CONDEMNATION

**12.1 Taking.** "Taking" means acquiring of all or part of the Project for any public or quasi-public use by exercise of a right of eminent domain or under any other law, or any sale in lieu thereof. If a Taking occurs:

- (a) **Total Taking.** If because of a Taking substantially all of the Premises are Untenantable for substantially all of the remaining Term, then the Sublease terminates on the date of the Taking.
- (b) **Partial Taking.** If a Taking does not cause the Sublease to be terminated under (a), then Sublandlord will restore (and alter, as necessary) the Premises to be tenantable, unless the Sublease is terminated by either Sublandlord or Subtenant under the following circumstances:
  - (1) Sublandlord may terminate the Sublease upon 60 days prior written notice to Subtenant if Sublandlord reasonably determines that it is uneconomical to restore or alter the Premises to be tenantable.
  - (2) Subtenant may terminate the Sublease upon 60 days prior written notice to Sublandlord if the Taking causes more than 40% of the Premises to be Untenantable for the remainder of the Term and Subtenant cannot reasonably operate Subtenant's business for the Use in the remaining Premises.
- (c) If the Sublease is not terminated under (a) or (b), the Rent will be reduced for the term of the Taking based upon the RSF of the Premises made Untenantable by the Taking.

**12.2 Awards.** Sublandlord is entitled to the entire award for any claim for a taking of any interest in this Sublease or the Project, without deduction or offset for Subtenant's estate or interest; however, Subtenant may make a claim for relocation expenses and damages to Subtenant's Personal Property and business to the extent that Subtenant's claim does not reduce Sublandlord's award.

## 13. SUBTENANT TRANSFERS

**13.1 Transfer Defined.** "Transfer" means any:

- (a) Sublease of all or part of the Premises, or assignment, mortgage, hypothecation or other conveyance of an interest in this Sublease;
- (b) Use of the Premises by anyone other than Subtenant with Subtenant's consent;
- (c) Change in Subtenant's form of organization (e.g., a change from a partnership to limited liability company);
- (d) Transfer of 51% or more of Subtenant's assets, shares (except shares transferred in the normal course of public trading), membership interests, partnership interests or other ownership interests; or
- (e) Transfer of effective control of Subtenant.

**13.2 Consent Required.** Except as provided in Section 13.5 hereof, each proposed Transfer requires Sublandlord's prior written consent, which consent may be withheld in Sublandlord's sole and absolute discretion except as otherwise provided below, in which case the parties will proceed as follows:

- (a) **Subtenant's Notice.** Subtenant shall notify Sublandlord at least 30 days prior to the proposed Transfer of the name and address of the proposed transferee and the proposed use of the Premises, and include in the notice the Transfer documents and, in the case of an assignment of this



Sublease, copies of the proposed transferee's balance sheets and income statements (both current and for the past 2 years).

(b) Sublandlord's Rights. Within 30 days after receipt of Subtenant's complete notice, Sublandlord may:

- (1) If the proposed Transfer is either an assignment of this Sublease or sublease of substantially all of the Premises, terminate this Sublease as of the proposed Transfer date, in which case neither Sublandlord nor Subtenant shall have any further obligations or liabilities to the other from and after the date of such termination except for those liabilities or obligations which arose prior to the date of termination or which expressly survive the termination of this Sublease; or
- (2) If the proposed Transfer is a sublease of all of the Premises or any part of the Premises that will be separately demised and have its own entrance from the Common Areas, exercise a right of first refusal to sublease such portion of the Premises at the lesser of (A) the Rent (prorated for subletting part of the Premises), or (B) the rent payable in the proposed Transfer; or
- (3) Consent or deny consent to the proposed Transfer, provided, however, that Sublandlord shall not unreasonably withhold its consent to a proposed Transfer to a transferee whose proposed use is compatible with an integrated educational community.

**13.3 Payments to Sublandlord.** Subtenant shall pay Sublandlord 100% of Transfer receipts that exceed Subtenant's Rent (on a per square foot basis); after Subtenant is reimbursed for Subtenant's reasonable and customary out-of-pocket costs incurred in the Transfer, including attorneys' fees, Alterations, and broker commissions.

**13.4 Effect of Transfers.** No Transfer releases Subtenant or any guarantor of this Sublease from any Sublease obligation. Sublandlord's acceptance of a payment from any person or entity other than Subtenant that occupies the Premises does not waive Subtenant's obligations under this Article 13. If Subtenant is in default of this Sublease, Sublandlord may proceed against Subtenant without exhausting any remedies against any transferee and may require (by written notice to any transferee) any transferee to pay Transfer rent owed Subtenant directly to Sublandlord (which Sublandlord will apply against Subtenant's Sublease obligations). In addition, if any subtenant, pursuant to its sublease with Subtenant, pays directly to Sublandlord any Base Rent (as defined in such sublease), Additional Rent or Utility Rent, such payments shall be credited against the Base Rent, Additional Rent or Utility Rent, whichever is applicable, payable by Subtenant to Sublandlord under this Sublease. Termination of this Sublease for any reason will not result in a merger. Each sublease will be deemed terminated upon termination of this Sublease unless Sublandlord notifies the subtenant in writing of Sublandlord's election to assume any sublease, in which case the subtenant shall attorn to Sublandlord under the executory terms of the sublease.

**13.5 Permitted Transfers.** Notwithstanding the foregoing, Subtenant may, without the consent of Sublandlord, (a) sublease all of the Premises to CUE or another person or entity that will use the Premises for a middle school and high school provided that in the case of a subtenant other than CUE, Subtenant shall notify Sublandlord at least thirty (30) days prior to the proposed sublease of the name and address of the proposed subtenant or (b) assign all of its rights, title and interest in and to this Sublease to a successor entity or foundation whose purposes under its constituent documents are the same as those set forth in the constituent documents for Subtenant and which will continue to use the Premises for the permitted Use, provided that Subtenant shall notify Sublandlord at least thirty (30) days prior to the proposed assignment of the name and address of the proposed assignee.

## **14. SUBLANDLORD TRANSFERS**

**14.1 Sublandlord's Transfer.** Sublandlord's right to transfer any interest in the Project or this Sublease is not limited by this Sublease. Upon any such transfer, Subtenant will attorn to Sublandlord's transferee and Sublandlord will be released from liability under this Sublease, except for any Sublease obligations accruing before the transfer that are not assumed by the transferee.

**14.2 Subordination.** This Sublease is, and will at all times be, subject and subordinate to the Prime Lease and each ground lease, mortgage, deed to secure debt or deed of trust now or later encumbering the Building



or any other portion of the Project, including each renewal, modification, supplement, amendment, consolidation or replacement thereof (each, an "Encumbrance"). At Sublandlord's request, Subtenant will, without charge, promptly execute, acknowledge and deliver to Sublandlord (or, at Sublandlord's request, the Encumbrance holder) any instrument reasonably necessary to evidence this subordination. Notwithstanding the foregoing, each Encumbrance holder may unilaterally elect to subordinate its Encumbrance to this Sublease.

**14.3 Attornment.** Subtenant will automatically attorn to any transferee of Sublandlord's interest in the Project that succeeds Sublandlord by reason of a termination, foreclosure or enforcement proceeding of an Encumbrance, or by delivery of a deed in lieu of any foreclosure or proceeding (a "Successor Sublandlord"). In this event, the Sublease will continue in full force and effect as a direct lease between the Successor Sublandlord and Subtenant on all of the terms of this Sublease, except that the Successor Sublandlord shall not be:

- (a) Liable for any obligation of Sublandlord under this Sublease, or be subject to any counterclaim, defense or offset accruing before Successor Sublandlord succeeds to Sublandlord's interest;
- (b) Bound by any modification or amendment of this Sublease made without Successor Sublandlord's consent;
- (c) Bound by any prepayment of more than one Month's Rent; or
- (d) Obligated to perform any improvements to the Premises (or provide an allowance therefor). Upon Successor Sublandlord's request, Subtenant will, without charge, promptly execute, acknowledge and deliver to Successor Sublandlord any instrument reasonably necessary or required to evidence such attornment.

**14.4 Estoppel Certificate.** Within 10 days after receipt of Sublandlord's written request, Subtenant (and each guarantor and transferee of an interest in the Sublease) will execute, acknowledge and deliver to Sublandlord a certificate upon which Sublandlord and each existing or prospective Encumbrance holder may rely confirming the following (or any exceptions to the following):

- (a) The Commencement Date and Expiration Date;
- (b) The documents that constitute the Sublease, and that the Sublease is unmodified and in full force and effect;
- (c) The date through which Base Rent, Additional Rent, and other Rent has been paid;
- (d) That neither Sublandlord nor Subtenant is in default of this Sublease;
- (e) That Sublandlord has satisfied all Sublease obligations to improve the Premises (or provide Subtenant an allowance therefor) and Subtenant has accepted the Premises;
- (f) That Subtenant solely occupies the Premises; and
- (g) Such other matters concerning this Sublease or Subtenant's occupancy that Sublandlord may reasonably require.

## **15. DEFAULT AND REMEDIES**

**15.1 Subtenant's Default.** Subtenant is in default ("Default") of this Sublease if any of the following occur:

- (a) Subtenant fails to pay Rent when due, and the failure continues for 10 days after notice to Subtenant of the failure.
- (b) Subtenant fails to perform a non-monetary Sublease obligation and the failure continues for 20 days after notice to Subtenant of the failure, except that (1) In an emergency Sublandlord may require Subtenant to perform this obligation in a reasonable time of less than 20 days, or (2) If Subtenant begins performing this obligation within 20 days after notice to Subtenant of this failure, but it will reasonably take more than 20 days to complete performing the obligation, then Subtenant will have a reasonable amount of additional time to complete performing the obligation so long as Subtenant diligently pursues the performance of such obligation to completion.
- (c) Subtenant consummates a Transfer that violates Article 13.

- (d) Subtenant fails to discharge any attachment or levy on Subtenant's interest in this Sublease within 15 days after the attachment or levy encumbers this Sublease.
- (e) Subtenant fails to cause any of the following proceedings to be vacated or dismissed within 60 days after they are commenced: (1) the appointment of a receiver or trustee of the assets of Subtenant or any guarantor of this Sublease, (2) the voluntary or involuntary bankruptcy of Subtenant or any guarantor of this Sublease, or (3) any assignment for the benefit of creditors of the assets of Subtenant or any guarantor of this Sublease.
- (f) Subtenant vacates or abandons substantially all of the Premises.
- (g) Subtenant is named on the list of Specially Designated Nationals and Blocked Persons maintained by the Office of Foreign Assets Control of the United States Department of the Treasury or any such similar list maintained by the state or federal government.

**15.2 Remedies.** If Default occurs, Sublandlord shall have the rights and remedies set forth in this Sublease which shall be distinct, separate and cumulative and shall not operate to exclude or deprive Sublandlord of any other right or remedy allowed it by law or at equity.

- (a) Sublandlord may terminate this Sublease by giving notice to Subtenant of Sublandlord's election to do so, in which event the Term of this Sublease shall end, and all right, title and interest of Subtenant hereunder shall expire, on the date stated in such notice. In no event shall either re-entry or the taking of possession of the Premises by Sublandlord be construed as an election by Sublandlord to terminate this Sublease. Written notice alone shall be proof of any such election by Sublandlord. No termination of this Sublease shall terminate Subtenant's obligations under this Sublease to pay Rent, which obligation shall survive such termination.
- (b) Sublandlord may terminate Subtenant's right to possession of the Premises without terminating this Sublease by giving notice to Subtenant that Subtenant's right to possession shall end on the date stated in such notice, and all right of Subtenant to possession of the Premises or any part thereof shall cease on the date stated in such notice. An election by Sublandlord to terminate Subtenant's right to possession of the Premises without terminating the Sublease shall not preclude a subsequent election by Sublandlord to terminate the Sublease.
- (c) If Sublandlord terminates this Sublease as provided in Section 15.2 (a) or if Sublandlord terminates Subtenant's right to possession of the Premises as provided in Section 15.2(b), (1) Subtenant shall surrender possession, vacate the Premises and immediately deliver possession to Sublandlord; and (2) Sublandlord may, with due process of law, re-enter and take possession of the Premises without being liable for prosecution for such action or being deemed guilty of any manner of trespass, and without diminishing any remedies for collection of Rent and without relinquishing any other right of Sublandlord.
- (d) Sublandlord may enforce the provisions of this Sublease and may enforce and protect the rights of Sublandlord by a suit or suits in equity or at law for the specific performance of any covenant or agreement contained in this Sublease, or for the enforcement of any other appropriate legal or equitable remedy, including recovery of all moneys due or to become due from Subtenant under any of the provisions of this Sublease.
- (e) Sublandlord may, but shall not be obligated to, cure Subtenant's Default by making any payment or performing such other act to the extent Sublandlord may deem desirable. Any such cure by Sublandlord shall be without notice and shall not waive or release Subtenant from any obligation under this Sublease. Subtenant covenants and agrees to pay Sublandlord, upon demand, all advances, costs and expenses incurred by Sublandlord in connection with such cure, including reasonable attorney's fees, together with interest at the Default Rate, from the date such are incurred by Sublandlord to the date of payment to Sublandlord.
- (f) Sublandlord may, without liability to Subtenant or any other party and without constituting a constructive or actual eviction, suspend or discontinue furnishing or rendering to Subtenant any property, material, labor, utilities or other service, wherever Sublandlord is obligated to furnish or render the same so long as a Default exists under this Sublease.

**15.3 Remedies for Recovery of Rent and Damages.**

- (a) If Sublandlord terminates the right of Subtenant to possession of the Premises pursuant to Section 15.2, regardless of whether Sublandlord previously terminated or subsequently terminates this Sublease:
- (1) Sublandlord shall be entitled to recover any and all Rent due and unpaid as of the date of repossession by Sublandlord. Subtenant shall immediately pay to Sublandlord all such Rent.
  - (2) Sublandlord shall be entitled to recover in one lump sum payment all unpaid Rent which would have accrued after the date of possession for the remainder of the then current Term (or if this Sublease has been terminated, what would have been the remainder of the then current Term but for such termination). For purposes of computing the amount of Rent hereunder that would have accrued after the date of repossession by Sublandlord, Subtenant's Share of Expenses and Subtenant's share of Net Direct Cafeteria Costs shall be calculated based on the average rate of increase, if any, in such items from the Commencement Date through the date of repossession. Subtenant shall immediately pay to Sublandlord all such Rent.
  - (3) Subtenant shall, upon demand, reimburse Sublandlord, with interest at the Default Rate from the date incurred through the date of payment to Sublandlord, the following: Repossession Expenses and Enforcement Costs.
- (b) Sublandlord shall not be required to mitigate any of its damages hereunder. If any law shall validly limit the amount of any damages provided for herein to an amount which is less than the amount agreed to herein, Sublandlord shall be entitled to the maximum amount available under such law.

**15.4 Definitions.**

- (a) "Enforcement Costs" shall be all sums, costs, expenses and damages (in addition to Repossession Expenses and including reasonable attorneys' fees) which are incurred by Sublandlord in enforcing Subtenant's obligations under this Sublease or by reason of Subtenant's Default, including without limitation, those arising out of any action brought by Sublandlord against Subtenant to interpret any provision of this Sublease or in connection with a bankruptcy or an assignment for the benefit of creditors.
- (b) "Repossession Expenses" are such costs and expenses including, without limitation, reasonable attorneys' fees which Sublandlord may incur, as Sublandlord considers appropriate, in order to recover possession of the Premises.
- (c) Reasonable attorneys' fees shall include the value of services provided by counsel employed by Sublandlord or its Affiliates in the amount that Sublandlord would have reasonably incurred if the services had been performed by unaffiliated counsel.

**15.5 Interest.** If Subtenant at any time fails to make any payment of Rent or of any amounts owed under this Sublease, Sublandlord may recover interest on such amounts at the rate per annum equal to the Prime Rate plus 5% per annum, but in no event in excess of the maximum interest rate permitted by law ("Default Rate"), from the date each amount is due until paid by Subtenant.

**15.6 Waivers.** Sublandlord and Subtenant expressly waive any right to trial by jury with respect to any proceeding pertaining to this Sublease. No waiver by Sublandlord of any Default of Subtenant shall be implied to affect, and no express waiver shall affect, any Default other than the Default specified in such waiver and that only for the time and to the extent stated.

**15.7 Force Majeure.** "Force Majeure" means any cause or event beyond the reasonable control of a party to this Sublease, including any act of God, government act or restriction, labor disturbance, general shortage of materials or supplies, riot, insurrection, or act of war or terrorism. Force Majeure excuses a party from performing any non-monetary Sublease obligation for a commercially reasonable time.

**15.8 Sublandlord's Default and Remedies.**

- (a) Sublandlord will be in "Default" of this Sublease if Sublandlord fails to perform any Sublease obligation of Sublandlord and this failure continues for 30 days after Subtenant notifies Sublandlord of such failure, or such longer period of time as is reasonable if more than 30 days is reasonably required to perform this obligation if performance commences within this 30-day period and is diligently prosecuted to completion.
- (b) If Sublandlord is in Default, then Subtenant may exercise any remedy available under law that is not waived or limited under this Sublease, subject to the following:
  - (1) Subtenant may not terminate this Sublease due to any Sublandlord Default.
  - (2) Sublandlord's liability under this Sublease is limited to Sublandlord's interest in the Project.
  - (3) No liability under this Sublease is assumed by Sublandlord's Affiliates.

**16. MISCELLANEOUS**

**16.1 Rules and Regulations.** Subtenant will comply with the Rules and Regulations attached as Exhibit C. Sublandlord may reasonably modify or add to the Rules and Regulations upon notice to Subtenant. If the Rules and Regulations conflict with this Sublease, the Sublease shall govern.

**16.2 Notice.** Notice to Sublandlord must be given to Sublandlord's Notice Addresses. Notice to Subtenant must be given to Subtenant's Notice Addresses. By notice to the other, either party may change its Notice Address. Each notice must be in writing and will be validly given if either: (a) the notice is personally delivered and receipt is acknowledged in writing; or (b) the notice is delivered by a nationally recognized overnight courier service (e.g., FedEx or Airborne Express) and receipt is acknowledged in writing. If the party to receive notice fails to either accept delivery or acknowledge its receipt in writing, then notice may be validly given by mailing the notice first-class, certified or registered mail, postage prepaid, and the notice will be deemed received by the party 2 business days after the deposit of the notice in the U.S. Mail.

**16.3 Intentionally Omitted.**

**16.4 Building Name.** Subtenant shall not use the Building's name or image for any purpose, other than Subtenant's address, without Sublandlord's approval, which approval shall not be unreasonably withheld. Sublandlord may change the name of the Building without any obligation or liability to Subtenant.

**16.5 Entire Agreement.** This Sublease is deemed integrated and contains all of each party's representations, waivers and obligations. The parties may only modify or amend this Sublease in a writing that is fully executed and delivered by each party.

**16.6 Successors.** Unless provided to the contrary elsewhere in this Sublease, this Sublease binds and inures to the benefit of each party's heirs, successors and permitted assignees.

**16.7 No Waiver.** A party's waiver of a breach of this Sublease will not be considered a waiver of any other breach. No custom or practice that develops between the parties will prevent either party from requiring strict performance of the terms of this Sublease. No Sublease provision or act of a party creates any relationship between the parties other than that of sublandlord and subtenant.

**16.8 Independent Covenants.** The covenants of this Sublease are independent. A court's declaration that any part of this Sublease is invalid, void or illegal will not impair or invalidate the remaining parts of this Sublease, which will remain in full force and effect.

**16.9 Captions.** The use of captions, headings, boldface, italics or underlining is for convenience only, and will not affect the interpretation of this Sublease.

**16.10 Authority.**

- (a) Individuals signing this Sublease on behalf of Subtenant represent and warrant that they are authorized to bind Subtenant to this Sublease, and that Subtenant is qualified to do business in the State of Michigan. If required by Sublandlord, Subtenant will, at Subtenant's cost, provide

Sublandlord with a corporate resolution or other documentation acceptable to Sublandlord proving the authority of each individual signatory to bind Subtenant to this Sublease.

- (b) Subtenant represents and warrants to Sublandlord that Subtenant is not named on the list of Specially Designated Nationals and Blocked Persons maintained by the Office of Foreign Assets Control of the United States Department of the Treasury or any such similar list maintained by the state or federal government.
- (c) Subtenant represents and warrants to Sublandlord that any individual or entity involved in this Sublease transaction on behalf of Subtenant is not named on the list of Specially Designated Nationals and Blocked Persons maintained by the Office of Foreign Assets Control of the United States Department of the Treasury or any such similar list maintained by the state or federal government.

**16.11 Applicable Law.** The laws of Michigan govern this Sublease. In any action brought under this Sublease, Subtenant submits to the jurisdiction of the courts of the State of Michigan, and to venue in the County of Wayne.

**16.12 Confidentiality.** Subtenant will not record this Sublease or a memorandum of this Sublease without Sublandlord's written consent. Subtenant will keep the terms of this Sublease confidential and, unless required by law, may not disclose the terms of this Sublease to anyone other than Subtenant's Affiliates to the extent necessary to Subtenant's business.

**16.13 Reasonableness.** Subtenant's sole remedy for any claim against Sublandlord that Sublandlord has unreasonably withheld or unreasonably delayed any consent or approval shall be an action for injunctive or declaratory relief, it being acknowledged and agreed that no such claim may be asserted against Sublandlord except where Sublandlord has expressly agreed in this Sublease that it may not unreasonably withhold or delay its consent or approval.

**16.14 Time.** Time is of the essence as to all provisions in this Sublease in which time is a factor.

**16.15 Quiet Enjoyment.** So long as Subtenant is not in default of this Sublease and except as provided in the Sublease, Sublandlord will not interfere with Subtenant's peaceful and quiet enjoyment of the Premises for the Term. Sublandlord is not liable for, and Subtenant will not be released from any obligation under this Sublease because of any interference with Subtenant's peaceful and quiet enjoyment of the Premises that is caused by any other person, including other subtenants.

**16.16 Right to Enter Premises.** Sublandlord may enter the Premises at any reasonable time to inspect the Premises, to show the Premises to prospective lenders, purchasers, assignees or subtenants, to perform Sublandlord's duties under this Sublease, or to exercise Sublandlord's rights under §8.2. In connection with any permitted entry to perform Sublandlord's duties or exercise Sublandlord's rights under §8.2, Sublandlord may erect and use structures reasonably required by the nature of the work (including scaffolding, pipes and conduits), and may open or penetrate the Base Building or any Leasehold Improvements. If any Leasehold Improvements are damaged by Sublandlord as a result of Sublandlord exercising its rights under this §16.16, then Sublandlord will repair or replace the damaged portion, only, to match the original as nearly as is commercially reasonable.

**16.17 Exhibits.** The exhibits attached to this Sublease are incorporated herein. If any exhibit is inconsistent with the terms of this Sublease, the provisions of the Exhibit will, except as otherwise provided in Section 4.6 hereof, govern. The Exhibits to this Sublease are:

- EXHIBIT A Location of Premises
- EXHIBIT B Legal Description of Project
- EXHIBIT C Rules and Regulations
- EXHIBIT D Intentionally Deleted
- EXHIBIT E Notice of Sublease Term
- EXHIBIT F Work Letter
- EXHIBIT G Description of Various Expenses and Allocation Methodology

## 17. RENEWAL OPTION

Subtenant shall have the option to renew this Sublease (the "Renewal Option") for one additional term of ninety (90) years (the "Renewal Term") upon the same terms, covenants and conditions as are contained in this Sublease except that the Base Rent for the Renewal Term shall be equal to the fair market rental value of the Premises as determined as of the date the Renewal Option is exercised, and the entire Base Rent for the entire Renewal Term, discounted to present value using a discount rate as determined as of the date the Renewal Option is exercised, shall be payable in full, in one lump sum payment, on the date the Renewal Term commences. Subtenant must exercise the Renewal Option by giving written notice thereof to Sublandlord at least twelve (12) months, and not more than fifteen (15) months, prior to the expiration of the initial term of this Sublease (the "Notice"). The Notice shall be effective only if on the date the Notice is given no Default exists.

If Sublandlord and Subtenant fail to agree in writing on the fair market rental value of the Premises within thirty (30) days after Subtenant gives the Notice, each of the parties shall, within fifteen (15) days after the expiration of such thirty (30) day period, select a licensed Michigan real estate broker who shall have been active during the five year period ending on the date of selection in the leasing of commercial properties in the Detroit metropolitan area. Each broker shall deliver to both parties its written determination of the fair market rental value of the Premises within thirty (30) days after its selection. If the written determination which provides for the greater fair market value is not greater than the other determination by more than ten percent (10%), the fair market rental value of the Premises shall be the average of the two determinations, which shall be final and binding upon the parties hereto. If the written determination which provides for a greater fair market rental value is more than ten percent (10%) greater than the other written determination, each of the brokers shall jointly select a similar experienced real estate broker who shall, within thirty (30) days after its selection, determine the fair market rental value of the Premises, which determination shall be final and binding upon the parties hereto. Each party shall bear the cost of the real estate broker selected by it and the costs of the third broker, if any, shall be borne equally by the parties.

If Sublandlord and Subtenant fail to agree in writing on the discount rate within thirty (30) days after Subtenant gives the Notice, each of the parties shall, within fifteen (15) days after the expiration of such thirty (30) day period, select a licensed Michigan Certified Public Accountant ("CPA"). Each CPA shall deliver to both parties its written determination of the discount rate within thirty (30) days after its selection. If the written determination which provides for the greater discount rate is not greater than the other determination by more than ten percent (10%), the discount rate shall be the average of the two determinations, which shall be final and binding upon the parties hereto. If the written determination which provides for a greater discount rate is more than ten percent (10%) greater than the other written determination, each of the CPAs shall jointly select a similar experienced CPA who shall, within thirty (30) days after its selection, determine the discount rate to be utilized in calculating the Base Rent for the Renewal Term, which determination shall be final and binding upon the parties hereto. Each party shall bear the cost of the CPA selected by it and the costs of the third CPA, if any, shall be borne equally by the parties.

## 18. FF&E ALLOWANCE

Sublandlord shall provide to Subtenant an allowance up to \$1,200,000 (the "FF&E Allowance") to cover the cost of purchase by Subtenant of furniture, furnishings, fixtures and equipment to be placed within the Premises (the furniture, furnishings, fixtures and equipment purchased by utilization of the FF&E Allowance are collectively referred to herein as the "FF&E"). Sublandlord shall disburse the FF&E Allowance to Subtenant from time to time based upon requests for disbursement submitted by Subtenant to Sublandlord, each such request for disbursement to be accompanied by (a) a detailed description of the FF&E to be purchased with such disbursement, which description shall include the make, model, serial number and/or such other information as may be required to specifically identify such FF&E, and (b) reasonably satisfactory evidence of the costs of the purchase of the FF&E which Subtenant is requesting payment for pursuant to such disbursement request, such as invoices or purchase orders. Subtenant shall make requests for disbursements from the FF&E Allowance not more frequently than monthly. All FF&E shall, from and after the delivery thereof to Subtenant until the end of the Term, be located within the Premises and may not be removed therefrom without the prior written consent of Sublandlord.

To secure the payment and performance of all of Subtenant's obligations and covenants under this Sublease, Subtenant has granted to Sublandlord a security interest in all of the FF&E pursuant to a separate Security Agreement of even date herewith between Sublandlord and Subtenant.

[SIGNATURE PAGE FOLLOWS]

Having read and intending to be bound by the terms and provisions thereof, Sublandlord and Subtenant have executed this Sublease as of the Execution Date.

**SUBTENANT:**

**TEF-SIX, LLC, A MICHIGAN  
LIMITED LIABILITY COMPANY**

By: 

Name: Robert M. Thompson

Title: Manager

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**SUBLANDLORD:**

**ARGONAUT BUILDING MASTER  
TENANT LLC, A MICHIGAN LIMITED  
LIABILITY COMPANY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Having read and intending to be bound by the terms and provisions thereof, Sublandlord and Subtenant have executed this Sublease as of the Execution Date.

**SUBTENANT:**

**TEF-Six, LLC, A MICHIGAN  
LIMITED LIABILITY COMPANY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**SUBLANDLORD:**

**ARGONAUT BUILDING MASTER  
TENANT LLC, A MICHIGAN LIMITED  
LIABILITY COMPANY**

By: Anne D. Beck

Name: ADB

Title: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

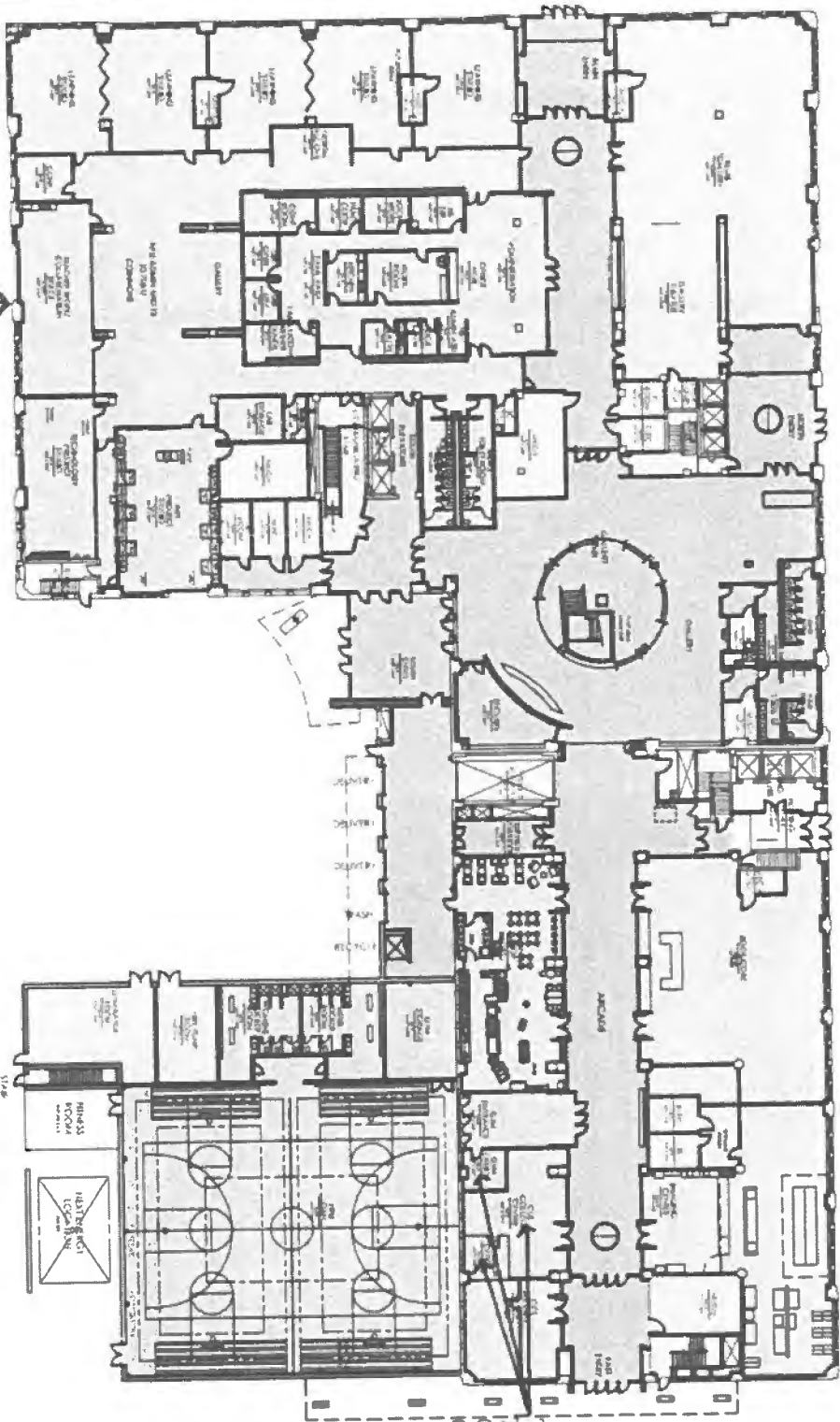
[Sublease – Signature page]



# **EXHIBIT A – LOCATION OF PREMISES**

**Argonaut Building/Detroit, MI**

**Suites #101, 102, 201, 301 and 401**



THE SPACE IDENTIFIED AS THE CUE COLLEGE CENTER, GYM OFFICE AND THE TRANSITION OFFICE IS SUITE 102.

- CONFERENCE CENTER
- COLLEGE FOR CREATIVE STUDIES
- CCS HOUSING
- COMMON, SHARED SPACES
- HFL SCHOOL
- UNITED WAY
- FUTURE TENANT SPACE
- PARKING
- CORE ELEMENTS
- FOOD SERVICE

ALL OF THIS CONTIGUOUS HFL SCHOOL SPACE IS SUITE 102



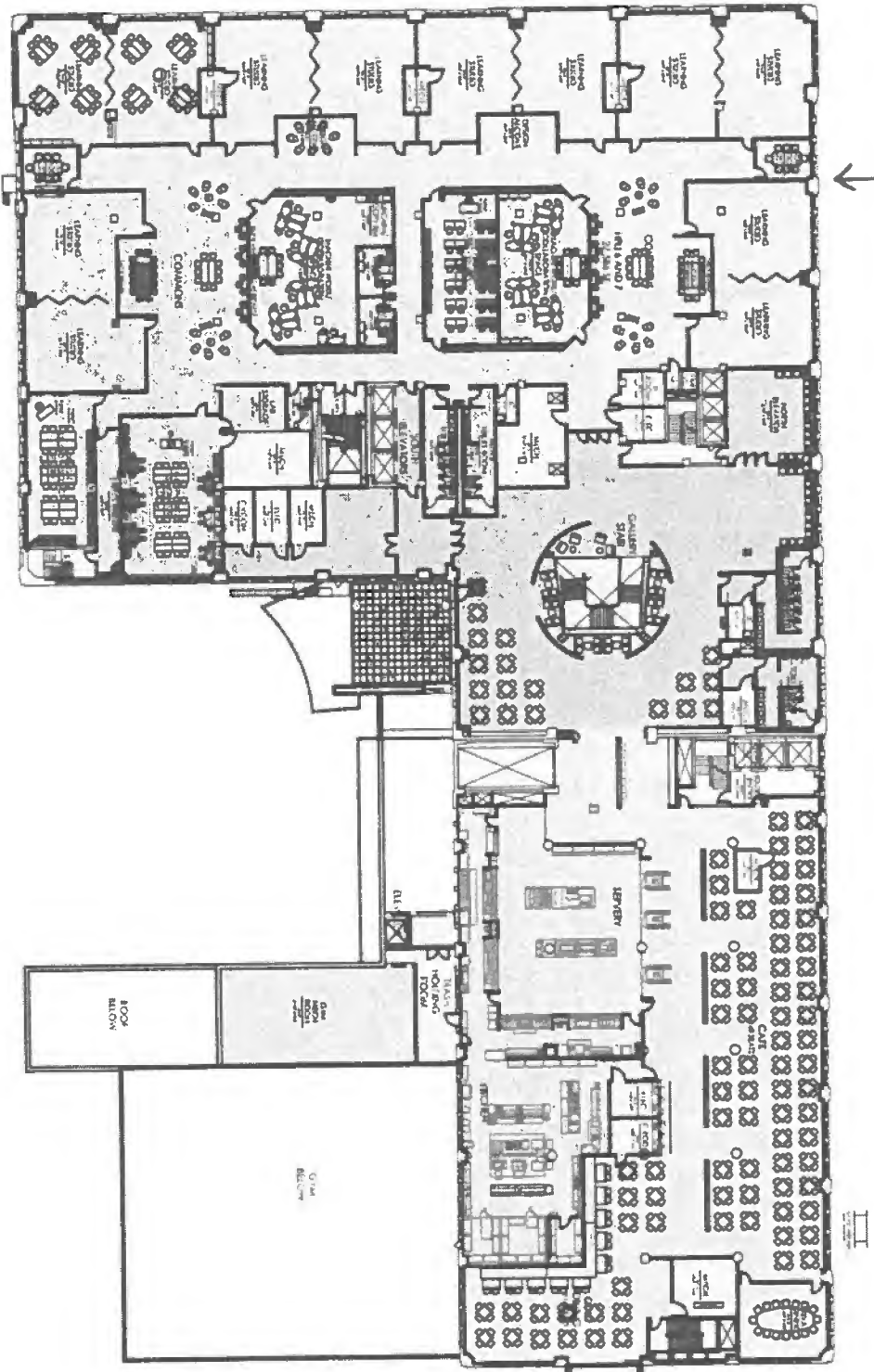
ARCADIA  
REVALUATION PROJECT  
DETROIT, MICHIGAN



Issue No.	Description	Date
• 0000	• REVIEW	• 4-30-08
• 0000	• FOR APPROVAL	• 4-18-08

Sheet title  
FIRST FLOOR PLAN  
Job No. 01422-P  
Sheet No. A-201

(OTHER THAN THE GYM MECH ROOM) IS SUITE 201.



- CONFERENCE CENTER
- COLLEGE FOR CREATIVE STUDIES
- CCS HOUSING
- COMMON, SHARED SPACES
- HFL SCHOOL
- UNITED WAY
- FUTURE TENANT SPACE
- PARKING
- CORE ELEMENTS
- FOOD SERVICE

**Kahn**

Albert Kahn Group  
2120 Second Ave  
Detroit, Michigan 48222

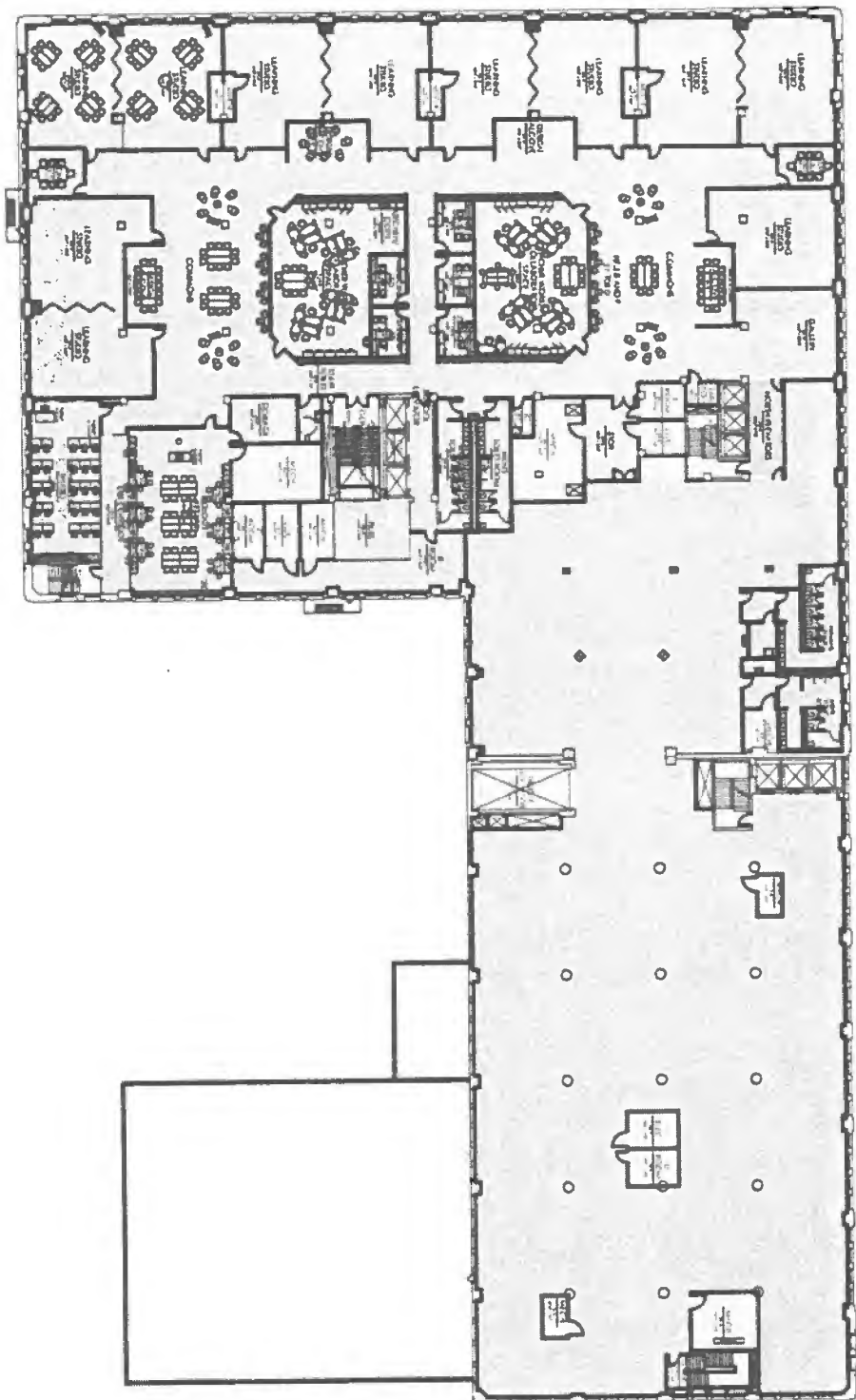
ARGONAUT  
REHABILITATION PROJECT  
DETROIT, MICHIGAN



• 0000	• REVIEW	• 4-30-08
• 0000	• FOR APPROVAL	• 4-18-08
Issue No.	Description	Date

Sheet Title	SECOND FLOOR PLAN
Job No.	01422-P
Sheet No.	A-202

SCHOOL IS SUITE 301.



- CONFERENCE CENTER
- COLLEGE FOR CREATIVE STUDIES
- CCS HOUSING
- COMMON, SHARED SPACES
- H-FU SCHOOL
- UNITED WAY
- FUTURE TENANT SPACE
- PARKING
- CORE ELEMENTS
- FOOD SERVICE



ARCHITECT KAHN BLUMBERG  
2000 SECOND AVE  
DETROIT, MI 48226-4300

ARGONAUT  
REHABILITATION PROJECT  
DETROIT, MICHIGAN



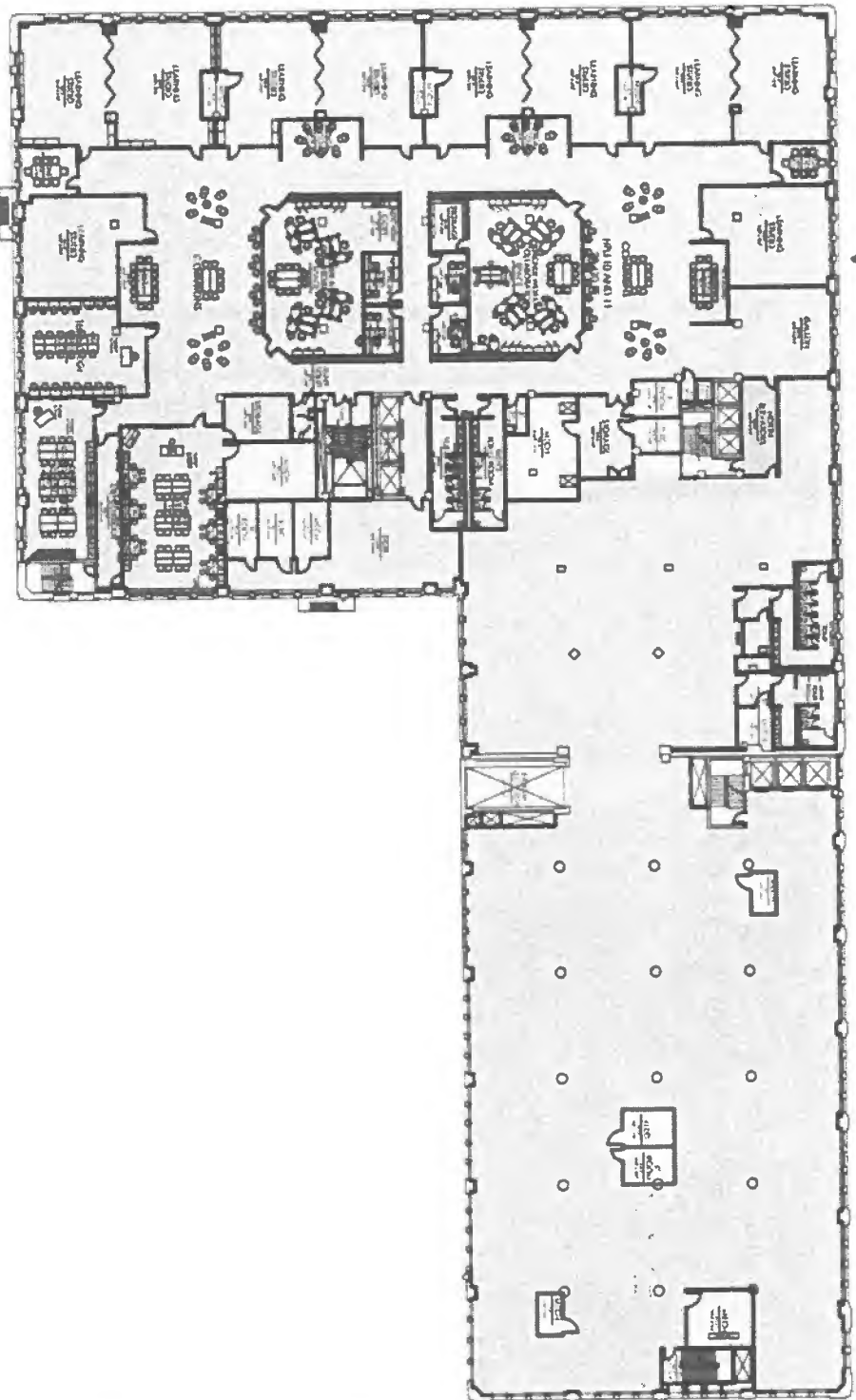
• 0000	• REVIEW	• 4-30-08
• 0000	• FOR APPROVAL	• 4-18-08
Issue No.	Description	Date

Sheet Title  
THIRD FLOOR PLAN

Job No.  
01422-P

Sheet No.  
A-203

SCHOOL IS SUITE 401.



- CONFERENCE CENTER
- COLLEGE FOR CREATIVE STUDIES
- CCS HOUSING
- COMMON, SHARED SPACES
- HPL SCHOOL
- UNITED WAY
- FUTURE TENANT SPACE
- PARKING
- CORE ELEMENTS
- FOOD SERVICE

**Kahn**

Robert Kahn & Associates  
1111 Woodward Ave., Suite 400  
Detroit, Michigan 48226

ARGONAUT  
REVITALIZATION PROJECT  
DETROIT MICHIGAN



Issue No.	Description	Date
• 0000	• REVIEW	• 4-30-08
• 0000	• FOR APPROVAL	• 4-18-08

Sheet title	FOURTH FLOOR PLAN	Sheet No.
Job No.	01422-P	A-204

## **EXHIBIT B - LEGAL DESCRIPTION OF PROJECT**

### **Argonaut Building/Detroit, MI**

#### **Argonaut Parcel**

Land situated in the City of Detroit, County of Wayne, State of Michigan described as follows:

Lots 27 through 60 inclusive, including the vacated alley (16 feet wide) lying adjacent to said lots of "Leavitt's Subdivision of that part of fractional Section 31, Town 1 South, Range 12 East, bounded by Milwaukee and Woodward Avenues, Grand Trunk Railroad and rear line of private claims and west line of said fractional Section 31 also Lots 8 to 17 both inclusive, part of Block 5 of Henry Weber's Subdivision of part of fractional Section 31 and 36 Town 1 South, Range 11 and 12 East and part of the Baker and Forsyth Farms" City of Detroit, Wayne County, Michigan as recorded in Liber 9 of Plats on Page 17, Wayne County Records and being more particularly described as follows: Beginning at the Southwesterly corner of Milwaukee Avenue (60 feet wide) and Cass Avenue (80 feet wide), said point being also the Northeasterly corner of Lot 27 of said "Leavitt's Subdivision" (Liber 9, Plats, Page 17, Wayne County Records); proceeding thence from said point of beginning South 26 degrees 18 minutes 49 seconds East, along the Westerly line of said Cass Avenue, said line being also the Easterly line of Lot 27, the Easterly end of a vacated alley (16 feet wide) and the Easterly line of Lot 60 of said "Leavitt's Subdivision", a measured distance of 231.07 feet (recorded 231.00 feet) to the Northwesterly corner of Baltimore Avenue (60 feet wide) and said Cass Avenue, said point being also the Southeasterly corner of said Lot 60; thence South 63 degrees 11 minutes 25 seconds West, along the Northerly line of said Baltimore Avenue, said line being also the Southerly line of Lots 60 through 44 inclusive of said subdivision, a measured distance of 522.05 feet (recorded 521.66 feet) to the Northeasterly corner of Second Avenue (80 feet wide) and said Baltimore Avenue, said point being also Southwesterly corner of said Lot 44; thence North 26 degrees 18 minutes 05 seconds West, along the Easterly line of said Second Avenue, said line being also the Westerly line of Lot 44, the Westerly end of said vacated alley and the Westerly line of Lot 43 of said subdivision, a measured distance of 231.07 feet (recorded 231.00 feet) to the Southeasterly corner of said Milwaukee and Second Avenue, said point being also the Northwesterly corner of said Lot 43; thence North 63 degrees 11 minutes 25 seconds East, along the Southerly line of said Milwaukee Avenue, said line being also the Northerly line of Lots 43 through 27 inclusive, a measured distance of 522.00 feet (described 521.66 feet) to the point of beginning.

#### **Second and Baltimore Parcel**

Land situated in the City of Detroit, County of Wayne, State of Michigan, described as follows:

Lots 116 and 117 of "Leavitt's Subdivision of that part of fractional Section 31, Town 1 South, Range 12 East", City of Detroit, Wayne County, Michigan as recorded in Liber 9 of Plats on Page 17, Wayne County Records and being more particularly described as follows: Beginning at the Southeasterly corner of Lot 117 of said "Leavitt's Subdivision" (Liber 9, Plats, Page 17, Wayne County Records), said point being also the Northwesterly corner of Baltimore Avenue (60 feet wide) and Second Avenue (80 feet wide); proceeding thence from said point of beginning South 63 degrees 11 minutes 00 seconds West, along the Northerly line of said Baltimore Avenue, said line being also the Southerly line of Lots 117 and 116 of said subdivision, a measured distance of 72.31 feet (recorded 72.15 feet) to the Southwesterly corner of said Lot 116; thence North 26 degrees 13 minutes 50 seconds West, along the Westerly line of said Lot 116, a distance of 107.50 feet to the Northwesterly corner of said lot; thence North 63 degrees 11 minutes 00 seconds East, along the Southerly line of a public alley (16 feet wide), said line being also the Northerly line of Lots 116 and 117 of said subdivision, a measured distance of 72.21 feet (recorded 72.15 feet) to the Northeasterly corner of said Lot 117; thence South 26 degrees 16 minutes 46 seconds East, along the Westerly line of said Second Avenue, said line being also the Easterly line of said Lot 117, a distance of 107.50 feet to the point of beginning.

## EXHIBIT C – RULES & REGULATIONS

### Argonaut Building/Detroit, MI

**“Rules and Regulations” mean the contents of this Exhibit C, as modified, amended or revoked by Sublandlord, from time to time.**

1. **Right to Exclude.** Sublandlord may require that Subtenant, its Affiliates and guests comply with each reasonable security measure that Sublandlord may establish as a condition for entry to the Premises, Building or Project. These measures may include submitting to a search by persons or devices employed by Sublandlord, presenting an identification card or pass issued by the government, Sublandlord, or both, being announced to Subtenant and accepted as a visitor by Subtenant, and signing a register on entry and exit. Any person who cannot comply with these requirements may be excluded from the Project. If Sublandlord requires a Building pass issued by Sublandlord as a condition of entry to the Premises, Building or Project, Sublandlord will furnish a Building pass to all persons reasonably designated by Subtenant in writing. Sublandlord may exclude or expel from the Project any person who, in Sublandlord's reasonable opinion, is intoxicated or under the influence of alcohol or drugs. Sublandlord may require Subtenant and its Affiliates and guests to enter and exit the Building from those entrances designated by Sublandlord from time to time.

2. **Obstructions.** Subtenant will not cause the Common Areas, or sidewalks or driveways outside the Building to be obstructed. Sublandlord may remove, at Subtenant's expense, any such obstruction without prior notice to Subtenant.

3. **Trash.** Subtenant will place trash in proper receptacles in the Premises provided by Subtenant at Subtenant's cost, or in Building receptacles designated by Sublandlord. Subtenant may not litter in the Common Areas, or sidewalks or driveways outside the Building.

4. **Public Safety.** Subtenant will not throw anything out of doors, windows or skylights, down passageways or over walls. Subtenant will not use any fire exits or stairways in the Building except in case of emergency.

5. **Keys and Locks.** Sublandlord may from time to time install and change locks on entrances to the Project, Building, Common Areas or Premises, and will provide Subtenant a number of keys to meet Subtenant's reasonable requirements. Additional keys will be furnished by Sublandlord at Subtenant's cost. At the end of the Term, Subtenant will promptly return to Sublandlord all keys for the Building and Premises issued by Sublandlord to Subtenant. Unless Subtenant obtains Sublandlord's prior written consent, Subtenant will not add or change any locks on any door to, in or about the Premises. If with Sublandlord's consent, Subtenant installs any lock incompatible with the Building master locking system, Subtenant will: relieve Sublandlord of each Sublease obligation that requires access to each affected area; indemnify Sublandlord against any Claims resulting from forced entry to each affected area in an emergency; and, at the end of the Term, remove each incompatible lock and replace it with a Building Standard lock at Subtenant's expense.

6. **Aesthetics.** Unless Subtenant obtains Sublandlord's prior written consent (which may be withheld in Sublandlord's sole and absolute discretion), Subtenant may not:

- (a) Attach any awnings, signs, displays or projections to either the outside walls or windows of the Building, or to any part of the Premises visible from outside the Premises;
- (b) Hang any non-Building Standard curtains, blinds, shades or screens in any window or door of the Premises;
- (c) Coat or sunscreen the interior or exterior of any windows; or
- (d) Place any objects on windowsills.

7. **Directories and Signs.** Subtenant will be identified in the Building's directory in the main lobby. The Premises will be identified by 1 Building Standard sign consisting of Subtenant's name and suite number, located at the entrance to the Premises. The initial lobby directory listing and Premises sign will be at Subtenant's cost and expense, and any changes to the listing or sign will be made at Subtenant's cost and expense.

8. **HVAC Operation.** Subtenant will not obstruct the HVAC convectors or diffusers, or adjust or interfere with the HVAC system. Subtenant will assist the HVAC system in maintaining comfort in the Premises by drawing shades,



blinds and other window coverings in the Premises as may be reasonably required. Subtenant may not use any method of heating or cooling the Premises other than that supplied by Sublandlord.

9. **Plumbing.** Subtenant will use plumbing fixtures only for the purpose for which they are constructed. Subtenant will reimburse Sublandlord for any damage caused by Subtenant's misuse of plumbing fixtures.

10. **Equipment Location.** Sublandlord may specify the location of any of Subtenant's business machines, mechanical equipment or other property that are unusually heavy, may damage the Building, or may cause vibration, noise or annoyance to other subtenants. Subtenant will reimburse Sublandlord for any professional engineering certification or assistance reasonably required to determine the location of these items.

11. **Bicycles.** Subtenant may not bring bicycles or other vehicles into the Building or Premises except, to the extent permitted by the Sublease, for the parking of Vehicles in the parking spaces located within the basement of the Building. Bicycles and other vehicles may only be parked in areas designated by Sublandlord.

12. **Animals.** Subtenant may not bring any birds or animals, excepting seeing-eye/assistance dogs, into the Building or Premises.

13. **Carpet Protection.** To protect carpeting in the Premises, Subtenant will, at its own expense, install and maintain pads to protect the carpet under all furniture having castors other than carpet castors.

14. **Elevators.** Any use of the elevators for purposes other than normal passenger use (such as moving to or from the Building or delivering freight), whether during or after business hours, must be scheduled through the office of the Property Manager or if there is no Property Manager, through Sublandlord. Subtenant will reimburse Sublandlord for any extra costs incurred by Sublandlord in connection with any such non-passenger use of the elevators.

15. **Moving and Deliveries.** Subtenant's movers are subject to Sublandlord's reasonable approval. Moving of Subtenant's Personal Property and deliveries of materials and supplies to the Premises must be made during the times and through the entrances, elevators and corridors reasonably designated by Sublandlord. Moving and deliveries may not be made through any of the main entrances to the Building without Sublandlord's prior permission. Any hand truck or other conveyance used in the Common Areas must be equipped with rubber tires and rubber side guards to prevent damage to the Building and its property. Subtenant will promptly reimburse Sublandlord for the cost of repairing any damage to the Building or its property caused by any person making deliveries to the Premises.

16. **Solicitation.** Canvassing, soliciting and peddling in the Project are prohibited and Subtenant will cooperate in preventing the same.

17. **Food.** Only persons approved from time to time by Sublandlord may prepare, solicit orders for, sell, serve or distribute food in or around the Project. Except as may be specified in the Sublease or on construction drawings for the Premises approved by Sublandlord, and except for microwave cooking, Subtenant will not use the Premises for preparing or dispensing food, or soliciting of orders for sale, serving or distribution of food.

18. **Work Orders.** Only authorized representatives of Subtenant may request services or work on behalf of Subtenant. Subtenant may not request that Building employees perform any work outside of their duties assigned by Sublandlord.

19. **Smoking.** Neither Subtenant nor its Affiliates shall smoke or permit smoking in any part of the Premises or Building. In addition, neither Subtenant nor its Affiliates shall smoke or permit smoking in any part of the Project located outside of the Building in which Sublandlord, in Sublandlord's sole discretion, prohibits smoking or in which smoking is prohibited by law. Sublandlord may designate the entire Project a no-smoking area.

20. **Space Heaters.** No space heaters or similar devices may be used within the Premises without Sublandlord's consent.

21. **Rules Applied.** These Rules and Regulations apply equally to Subtenant's Affiliates and others permitted by Subtenant to access, use or occupy the Premises.



**EXHIBIT D – INTENTIONALLY DELETED**

## EXHIBIT E

### NOTICE OF SUBLEASE TERM

Argonaut Building/Detroit, MI

This NOTICE OF SUBLEASE TERM, NLT, is given by \_\_\_\_\_, Subtenant, to Argonaut Building Master Tenant LLC, Sublandlord, with respect to that certain Sublease dated \_\_\_\_\_, Sublease, under which Subtenant has subleased from Sublandlord certain Premises known as Suite \_\_\_, Premises, located at the Argonaut Building.

In consideration of the mutual covenants and agreements stated in the Sublease, and intending that this Agreement may be relied upon by Sublandlord and any prospective purchaser or present or prospective Encumbrance holder, Subtenant certifies and confirms the following:

- (a) The Commencement Date is \_\_\_\_\_, 20\_\_
- (b) The Expiration Date is \_\_\_\_\_, 20\_\_.

Except for those terms expressly defined in this NLT, all initially capitalized terms will have the meanings stated for such terms in the Sublease.

EXECUTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 200\_\_.

{SUBTENANT}

By: \_\_\_\_\_  
Print: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXAMPLE ONLY**  
**DO NOT SIGN**

{SUBLANDLORD}

By: \_\_\_\_\_  
Print: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXAMPLE ONLY**  
**DO NOT SIGN**

**EXHIBIT F – WORK LETTER**  
**(TURNKEY-SUBLANDLORD PREPARES CONSTRUCTION DOCUMENTS)**

**Argonaut Building/Detroit, MI**  
**Suites #101, 102, 201, 301 and 401**

1. **Conflicts; Terms.** If there is any conflict or inconsistency between the provisions of the Sublease and those of this Exhibit F ("Work Letter"), the provisions of this Work Letter will control. Except for those terms expressly defined in this Work Letter, all initially capitalized terms will have the meanings stated for such terms in the Sublease. The following terms, which are not defined in the Sublease, have the meanings indicated:

(a) "Sublandlord's Representative" means Adriana Calderon, or such other person as may be designated by Sublandlord from time to time.

(b) "Subtenant's Representative" means John Cleary, or such other person as may be designated by Subtenant from time to time.

(c) "Tenant Improvements" means all alterations, improvements and installations to be constructed or installed by Sublandlord according to this Work Letter. In no event will the Tenant Improvements include any furniture, fixtures or equipment (including telecommunications and security system cabling and equipment) except for any equipment expressly provided for in the Construction Documents approved by Sublandlord, as the same may be revised from time to time with the approval of Sublandlord.

(d) "Preliminary Plans" means those preliminary plans and specifications for the Tenant Improvements dated April 18, 2008, prepared by Albert Kahn Associates, Inc. and identified in Schedule 1 attached hereto. Sublandlord and Subtenant have reviewed and approved the Preliminary Plans.

(e) "Construction Documents" means complete construction plans and specifications for the Tenant Improvements.

2. **Sublandlord's Obligations.** Sublandlord will proceed to complete the Premises according to this Work Letter and tender possession of the Premises to Subtenant when the Tenant Improvements have been completed to the extent that only minor construction details, which would not materially interfere with Subtenant's use and enjoyment of the Premises, require completion or correction ("Substantially Completed" or "Substantial Completion"). Subtenant will accept the Premises when Sublandlord tenders possession, provided that the Tenant Improvements have been Substantially Completed, and provided further that Subtenant will not be required to accept possession prior to the Scheduled Commencement Date. Sublandlord and Subtenant agree that all Tenant Improvements, whether paid for by Sublandlord or Subtenant, will, without compensation to Subtenant, become Sublandlord's property upon installation and will remain Sublandlord's property at the expiration or earlier termination of the Term. If Subtenant reasonably objects to Sublandlord's determination that Substantial Completion has occurred, Sublandlord and Subtenant shall, acting reasonably and in good faith, attempt to agree on whether Substantial Completion has occurred. If Sublandlord and Subtenant cannot so agree, Sublandlord's architect and a person retained or appointed by Subtenant who has experience in construction matters will, acting reasonably and in good faith, attempt to agree on whether Substantial Completion has occurred. If Sublandlord's architect and such person cannot agree on whether Substantial Completion has occurred, the parties agree to submit the issue for resolution by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then in effect. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

3. **Punch List.** Subtenant's taking possession of any portion of the Premises will be conclusive evidence that such portion of the Premises was in good order and satisfactory condition when Subtenant took possession, except as to any patent defects identified on a punch list prepared and signed by Sublandlord's

Representative and Subtenant's Representative after an inspection of the Premises by both such parties when Subtenant takes possession, and except as to any latent defects of which Subtenant notifies Sublandlord in writing within one year after the Commencement Date. If Subtenant and Sublandlord cannot, acting reasonably and in good faith, agree upon the defects to be identified in such punch list, such dispute shall be resolved in accordance with the procedures set forth in Section 2 above for resolving a dispute over whether Substantial Completion has occurred. Failure to advise Sublandlord in writing within one year of the Commencement Date of any latent defects shall result in a waiver of any claims regarding said defects by Subtenant. Sublandlord will not be responsible for any items of damage caused by Subtenant, its agents, independent contractors or suppliers. No promises to alter, remodel or improve the Premises or Building and no representations concerning the condition of the Premises or Building have been made by Sublandlord to Subtenant other than as may be expressly stated in the Sublease (including this Work Letter).

4. **Representatives.** Sublandlord appoints Sublandlord's Representative to act for Sublandlord in all matters covered by this Work Letter. Subtenant appoints Subtenant's Representative to act for Subtenant in all matters covered by this Work Letter. All inquiries, requests, instructions, authorizations and other communications with respect to the matters covered by this Work Letter will be made to Sublandlord's Representative or Subtenant's Representative, as the case may be. Subtenant will not make any inquiries of or request to, and will not give any instructions or authorizations to, any other employee or agent of Sublandlord, including Sublandlord's architect, engineers and contractors or any of their agents or employees, with regard to matters covered by this Work Letter. Either party may change its Representative under this Work Letter at any time by prior written notice to the other party.

5. **Construction Documents; Construction of Tenant Improvements.** Promptly after full execution and delivery of the Sublease, Sublandlord will cause its architect to prepare the Construction Documents based strictly on the Preliminary Plans unless otherwise agreed to by Sublandlord and Subtenant. The Construction Documents will be subject to Sublandlord's approval and, prior to the commencement of construction, Subtenant will be given an opportunity to review the Construction Documents to confirm that they conform to the Preliminary Plans. Once the Construction Documents have been so approved, reviewed and confirmed, Sublandlord will, at its expense, cause the Tenant Improvements shown on the Construction Documents to be constructed or installed in the Premises on a "turnkey" basis, in a good and workmanlike manner, substantially in accordance with the Construction Documents approved by Sublandlord and in accordance with all applicable laws. However, if Subtenant requests any changes to the Construction Documents (other than changes required to make the same conform to the Preliminary Plans), and if such changes result in an increase in the cost of constructing or installing the Tenant Improvements, then Subtenant will pay for such increase within ten (10) days after receipt of Sublandlord's invoice.

6. **Change Orders.** Subtenant's Representative may authorize changes in the work (including work in addition to the Tenant Improvements) during construction only by written instructions to Sublandlord's Representative on a form approved by Sublandlord. All such changes will be subject to Sublandlord's prior written approval according to Paragraph 7 below. Prior to commencing any change, Sublandlord will prepare and deliver to Subtenant, for Subtenant's approval, a change order ("Change Order"), identifying the total cost of such change, which will include associated architectural, engineering and construction contractor's and manager's fees. If Subtenant fails to approve such Change Order within five (5) business days after delivery by Sublandlord, Subtenant will be deemed to have withdrawn the proposed change and Sublandlord will not proceed to perform the change. Upon Sublandlord's receipt of Subtenant's approval and payment of the total cost of such Change Order (a "Change Order Payment"), Sublandlord will proceed to perform the change. Subtenant will pay the total cost of any Change Orders within 10 days of its approval of same.

7. **Sublandlord's Approval.** All Construction Documents and Change Orders, and any drawings, plans and specifications for any changes or additions reflected in Change Orders or any other improvements or installations in the Premises, are expressly subject to Sublandlord's prior written approval. Sublandlord may withhold its approval of any such items that require work which:

(a) exceeds or adversely affects the capacity or integrity of the Building Structure or Mechanical Systems;

(b) is not approved by the holder of any Encumbrance;

- (c) would not be approved by a prudent owner of property similar to the Building;
- (d) violates any agreement which affects the Building or binds Sublandlord;
- (e) Sublandlord reasonably believes will increase the cost of operating or maintaining any of the Mechanical Systems;
- (f) Sublandlord reasonably believes will reduce the market value of the Premises or the Building at the end of the Term;
- (g) does not conform to applicable building code or is not approved by any governmental authority having jurisdiction over the Premises;
- (h) does not meet or exceed Building Standard; or
- (i) Sublandlord reasonably believes will infringe on the architectural or historical integrity of the Building.

8. **Subtenant's Delays.** As provided in Section 3.1 of the Sublease, the Term of the Sublease (and therefore Subtenant's obligation for the payment of Rent) will not commence until Sublandlord has Substantially Completed all work to be performed by Sublandlord as stated in Paragraph 2 above; provided, however, that if Sublandlord is delayed in Substantially Completing such work as a result of:

- (a) any Subtenant delays described in Paragraphs 5, 6 or 7 above;
- (b) Subtenant's request for materials or installations as a part of the Tenant Improvements that are other than Building standard materials or installations that take longer to process or install than Building Standard materials or installation;
- (c) any Change Orders or changes in any drawings, plans or specifications requested by Subtenant;
- (d) Subtenant's failure to review or approve in a timely manner any item requiring Subtenant's review or approval;
- (e) performance of any work reflected in Change Orders or any failure to complete or delay in completion of such work; or
- (f) any other act or omission of Subtenant or Subtenant's architects, engineers, contractors or subcontractors (all of which will be deemed to be delays caused by Subtenant),

then the Commencement Date will only be extended under Section 3.1 of the Sublease until the date on which Sublandlord would have Substantially Completed the performance of such work but for such delays.

9. **General.** No approval by Sublandlord or Sublandlord's architect or engineer of any drawings, plans or specifications which are prepared in connection with construction of improvements in the Premises will constitute a representation or warranty by Sublandlord as to the adequacy or sufficiency of such drawings, plans or specifications, or the improvements to which they relate, for any use, purpose or condition, but such approval will merely be the consent of Sublandlord to the construction or installation of improvements in the Premises according to such drawings, plans or specifications. Failure by Subtenant to pay any amounts due under this Work Letter will have the same effect as failure to pay Rent under the Sublease, and such failure or Subtenant's failure to perform any of its other obligations under this Work Letter will constitute a Default under Section 15.1(a) of the Sublease, entitling Sublandlord to all of its remedies under the Sublease as well as all remedies otherwise available to Sublandlord.

**SCHEDULE 1**  
**Argonaut Building/Detroit, MI**

1. First Floor Plan (Job No. 01422-P) Sheet No. A-201
2. Second Floor Plan (Job No. 01422-P) Sheet No. A-202
3. Third Floor Plan (Job No. 01422-P) Sheet No. A-203
4. Fourth Floor Plan (Job No. 01422-P) Sheet No. A-204

**EXHIBIT G –  
DESCRIPTION OF VARIOUS EXPENSES AND  
ALLOCATION METHODOLOGY**

**Argonaut Building/Detroit, MI**

# EXHIBIT G

Compilation of Additional Rent Components and Related Allocations  
Creative Urban Education, Inc., Argonaut Campus Developer Master Tenant, TEF Six, LLC  
Draft as of 8/18/2009 17:09

Description of Additional Rent	Lease Ref.	Included in Preliminary Estimate	Subtenant's right to contract directly for		Allocation Methodology	Notes
			Common Areas	Premises		
1 Taxes						
2 Real property taxes	4.2(a)	No	No	No	19.69%	
3 Taxes on rents or other income derived from the project		Yes	No	No	19.69%	
4 Capital and place of business taxes		No	No	No	19.69%	
5 Taxes, assessments, or fees in lieu of taxes described above		No	No	No	19.69%	
6 Other Taxes	4.3	No	No	No	19.69%	
7 Taxes on Subtenant's personal property		No	N/A	No	100%	
8 Taxes on rent		No	N/A	No	100%	
9 Taxes on Subtenant's occupancy of premises		No	N/A	No	100%	
10 This sublease	6.1	No	N/A	No	100%	
11 Expenses - Standard Services	6.1(p); 6.3	Yes	No	No	19.69% for the Common Areas; 100% for the Premises based on separate submetering of the electricity consumed in operating the heat pumps that furnish air conditioning and heat to the Premises	specific valuation (likely, N/A due to tax exempt)
12 HVAC						
13 Tempered water for common areas, rest rooms, kitchen	6.1(p)	Yes	No	No	19.69% for the Common Areas with respect to the Premises, either 100% of the amounts charged by Sublandlord if Sublandlord elects to have Sublandlord provide such services or if Sublandlord elects to retain a third party to provide such services, the sums payable under the contract with such third party provider	
14 Janitorial services	6.1(p); 6.2(g)	Yes	No	Yes	19.69% for the Common Areas with respect to the Premises, 100% of the amounts charged by Sublandlord if Sublandlord elects to have Sublandlord provide such services or if Sublandlord elects to retain a third party to provide such services, the sums payable under the contract with such third party provider	
15 Access to premises by at least one elevator	6.1(p)	Yes	No	No	N/A	
16 Labor to replace lights and lighting	6.2(p)	Yes	No	Yes	19.69%	Sweat cap
17 Electricity for common areas	6.1(p)	Yes	No	N/A	19.69%	
18 Expenses - Additional Services	6.2	No	N/A	Yes	If provided by Sublandlord, actual costs, plus 5% with respect to the cost of materials	Possible, but likely irrelevant due to metering
19 Lighting	6.2(p)	No	N/A	Yes	Actual costs	Possible, but likely irrelevant due to metering
20 Other Utilities and Services	6.2(b)	No	N/A	No	Actual costs	
21 Additional Systems and Metering	6.2(c)	No	N/A	Yes	Actual costs	
22 Expenses - Costs to operate, manage, administer, repair, secure, protect, etc.	7.2	Yes	No	N/A	Actual costs	
23 Replacement, Repairs, Maintenance - Common Areas	9.2	Yes	No	N/A	Actual costs	
24 Replacement, Repairs, Maintenance - Premises	9.2	Yes	No	N/A	Actual costs	
25 Sublandlord Insurance:	9.2	Yes	No	N/A	Actual costs	
26 Commercial General Liability	9.2	Yes	No	N/A	Actual costs	
27 Risk Insurance	9.2	Yes	No	N/A	Actual costs	
28 Loss of Income	9.2	Yes	No	N/A	Actual costs	
29 Boiler, Machinery	9.2	Yes	No	N/A	Actual costs	
30 Other	9.2	Yes	No	N/A	Actual costs	
31 Subtenant Insurance:	9.1	No	N/A	Yes	Actual costs	
32 Commercial General Liability	9.1	No	N/A	Yes	Actual costs	
33 Risk Insurance	9.1	No	N/A	Yes	Actual costs	
34 Loss of Income	9.1	No	N/A	Yes	Actual costs	
35 Boiler, Machinery	9.1	No	N/A	Yes	Actual costs	



36	Req. by law (workers comp., for ex.)	9.1	No	N/A	Yes	Actual costs
37	Employer liability (\$1 million limit per lease)	9.1	No	N/A	Yes	Actual costs
38	Leasehold improvements and subtenant personal property	9.1	No	N/A	Yes	Actual costs
39	Wages, salaries, benefits of personnel	4.2(a)(1)	Yes	No	No	19.69%
40	Costs of project management office	4.2(a)(1)	Yes	No	No	19.69%
41	Costs to comply with insurance requirements or laws	4.2(a)(1)	Yes	No	No	19.69%
42	Fees, costs payable to third party property manager	4.2(a)(1)	Yes	No	No	19.69% for the Common Areas; 100% for the Premises based on separate submetering of the gas furnished to the Premises
43	Utilities - Gas	4.2(a), 6.3	Yes	No	No	19.69%
44	Utilities - Water	4.2(a)	Yes	No	No	19.69% for the Common Areas; 100% for the Premises based on separate submetering of the electricity furnished to the Premises
45	Utilities - Electric	4.2(a), 6.3	Yes	No	No	19.69%
46	Utilities - Telecom	4.2(a)	Yes	No	Yes	19.69% for the Common Areas; actual costs with respect to the Premises
47	Parking Maint. and Repairs	4.2(a)	Yes	No	N/A	19.69%
48	Water/Sewer	4.2(a)	Yes	No	No	19.69% for the Common Areas; actual costs with respect to the Premises
49	Extermination	4.2(a)	Yes	No	Yes	19.69%
50	Garbage	4.2(a) with respect to Common Areas	Yes	No	Yes	19.69% for the Common Areas; actual costs with respect to the Premises
51	Recycling	4.2(a) with respect to Common Areas	Yes	No	Yes	19.69% for the Common Areas; actual costs with respect to the Premises
52	Fire Alarm	4.2(a) with respect to Common Areas	Yes	No	Yes	19.69% for the Common Areas; actual costs with respect to the Premises
53	Security System	4.2(a) with respect to Common Areas	Yes	No	Yes	19.69% for the Common Areas; actual costs with respect to the Premises
54	Elevator Maintenance	4.2(a)	Yes	No	N/A	19.69%
55	Window Washing	4.2(a) with respect to Common Areas	Yes	No	Yes	19.69% for the exterior of all exterior windows; 100% with respect to the interior of all windows located within or contiguous to the Premises
56	Snow Removal	4.2(a)	Yes	No	N/A	19.69%
57	Landscaping	4.2(a)	Yes	No	N/A	19.69%
58	Equipment/Supplies	4.2(a) with respect to Common Areas	Yes	No	Yes	19.69% for the Common Areas; 100% for the Premises

Separate bill, probably a nominal allow. For security telecom, for ex.

\*The foregoing does not apply to Net Direct California Costs, which are addressed in Section 4.2(b) of the Sublease



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**TEF-SIX, LLC**  
**("Sublandlord")**

**CREATIVE URBAN EDUCATION, INC.**  
**("Subtenant")**

**SUITES #101, 102, 201, 301 AND 401**

**ARGONAUT BUILDING**

**SUBLEASE**

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## SUBLEASE

Sublandlord and Subtenant enter this Sublease ("Sublease") as of the Execution Date on the following terms, covenants, conditions and provisions:

### 1. BASIC SUBLEASE PROVISIONS

1.1 **Basic Sublease Definitions.** In this Sublease, the following defined terms have the meanings indicated.

- (a) Execution Date \_\_\_\_\_, 2008.
- (b) Sublandlord: TEF-Six, LLC, a Michigan limited liability company
- (c) Subtenant: Creative Urban Education, Inc., a Michigan non-profit corporation
- (d) Building: Argonaut Building – 465-485 West Milwaukee Avenue, Detroit, Michigan, deemed to contain 627,341 rentable square feet ("RSF")
- (e) Premises: Suites 101, 102, 201, 301 and 401 (identified on Exhibit A), located on the first, second, third and fourth floors of the Building and deemed to contain:  
123,552 RSF
- (f) Use: Middle school and high school and attendant office use.
- (g) Scheduled Term: The period commencing on the Commencement Date (as defined in Section 3.1) and ending on the Expiration Date (as defined in Section 3.1 hereof).
- (h) Scheduled Commencement Date: July 17, 2009
- (i) Base Rent: The following amounts payable in accordance with Article 4:

Months	Annual Rate per RSF	Annual Base Rent	Monthly Base Rent
All Months (including any Partial Month) falling within the Term	\$1.62	\$200,154.24	\$16,679.52

- (j) Notice Address: For each party, the following address(es):

To Sublandlord	To Subtenant
TEF-Six, LLC c/o Thompson Educational Foundation P.O. Box 6349 Plymouth, Michigan 48170 Attn: John G. Cleary  with a copy to:  Poling, McGaw & Poling, P.C. 5455 Corporate Drive, Suite 104 Troy, Michigan 48098 Attn: Douglas McGaw	Before the Commencement Date: Creative Urban Education, Inc. c/o College for Creative Studies 201 E. Kirby Detroit, Michigan 48292-4034 Attn: Anne Beck, Vice President for Administration and Finance  After the Commencement Date: Creative Urban Education, Inc. c/o College for Creative Studies 201 E. Kirby Detroit, Michigan 48292-4034 Attn: Geoffrey Sleeman,

	Director of Facilities
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- (k) Billing Address: For each party, the following address:

For Sublandlord	For Subtenant
TEF-Six, LLC c/o Thompson Educational Foundation P.O. Box 6349 Plymouth, Michigan 48170 Attn: John G. Cleary	Creative Urban Education, Inc. c/o College for Creative Studies 201 E. Kirby Detroit, Michigan 48292-4034 Attn: Anne Beck, Vice President for Administration and Finance

- (l) Intentionally Deleted
- (m) Liability Limit: \$5,000,000.00 for any one accident or occurrence.
- (n) Prime Lease: That certain lease of the Project entered into by Argonaut Campus Developer LLC, as Landlord (the holder of the Landlord's interest in the Prime Lease from time to time is referred to herein as the "Prime Landlord"), and Argonaut Building Master Tenant LLC, as Tenant (the holder of the Tenant's interest in the Prime Lease from time to time is referred to herein as the "Prime Sublandlord").
- (o) Prime Sublease: That certain sublease of the Premises entered into by Prime Sublandlord, as sublandlord, and Sublandlord, as subtenant, a copy of which is attached hereto as Exhibit G.
- (p) School Year: September 1 to June 30.

## 2. PROJECT

**2.1 Project.** The Land, Building and all other improvements now or hereafter located in or on the Land (excluding the Gymnasium Building (as defined below)) are collectively referred to as the "Project."

**2.2 Land.** "Land" means the parcels of real property described in Exhibit B, including easements and other rights that benefit or encumber the real property. The Land may be expanded or reduced after the Execution Date.

**2.3 Base Building.** "Base Building" means Building Structure and Mechanical Systems, collectively, defined as follows:

- (a) Building Structure. "Building Structure" means the structural components in the Building, including foundations, floor and ceiling slabs, roofs, exterior walls, exterior glass and mullions, columns, beams, shafts, and emergency stairwells. The Building Structure excludes the Leasehold Improvements (and similar improvements to other premises) and the Mechanical Systems.
- (b) Mechanical Systems. "Mechanical Systems" means the mechanical, electronic, physical or informational systems generally serving the Building or other portions of the Project, including the sprinkler, plumbing, heating, ventilating, air conditioning, lighting, communications, security, drainage, sewage, waste disposal, vertical transportation, and fire/life safety systems.

**2.4 Common Areas.** Subtenant will have a non-exclusive right to use the Common Areas subject to the terms of this Sublease. "Common Areas" means those interior and exterior common and public areas on the Land (and appurtenant easements) and in the Building designated by Prime Sublandlord from time to time for the non-exclusive use by Subtenant in common with Prime Sublandlord, Sublandlord, other subtenants and occupants, and their employees, agents and invitees. The Common Areas include parking facilities serving the Building that

are owned or leased by Prime Sublandlord except for those parking facilities or parking spaces that are from time to time designated or reserved by Prime Sublandlord for the exclusive use of a subtenant or other occupant of the Building or visitors. The Common Areas do not include the Gymnasium Building. Notwithstanding anything to the contrary contained herein, Subtenant's employees may not park vehicles in any parking lot or other parking facilities located within the Project.

**2.5 Premises.** Sublandlord subleases to Subtenant the Premises subject to the terms of this Sublease. Except as provided elsewhere in this Sublease, by taking possession of the Premises Subtenant accepts the Premises in its "as is" condition and with all faults, and the Premises are deemed in good order, condition, and repair. The Premises includes the Leasehold Improvements and excludes certain areas, facilities and systems, as follows:

- (a) **Leasehold Improvements.** "Leasehold Improvements" mean all non-structural improvements in the Premises or exclusively serving the Premises, and any structural improvements to the Building made to accommodate Subtenant's particular use of the Premises. The Leasehold Improvements may exist in the Premises as of the Execution Date, or be installed by Prime Sublandlord or by Sublandlord or Subtenant under this Sublease at the cost of such party, including, but not limited to the work set forth in the attached Exhibit F ("Work Letter"). The Leasehold Improvements include but are not limited to: (1) interior walls and partitions (including those surrounding structural columns entirely or partly within the Premises); (2) the interior one-half of walls that separate the Premises from adjacent areas designated for leasing; (3) the interior drywall on exterior structural walls, and walls that separate the Premises from the Common Areas; (4) stairways and stairwells connecting parts of the Premises on different floors, except those required for emergency exiting; (5) the frames, casements, doors, windows and openings installed in or on the improvements described in (1-4), or that provide entry/exit to/from the Premises; (6) all hardware, fixtures, cabinetry, railings, paneling, woodwork and finishes in the Premises or that are installed in or on the improvements described in (1-5); (7) if any part of the Premises is on the ground floor, the ground floor exterior windows (including mullions, frames and glass); (8) integrated ceiling systems (including grid, panels and lighting); (9) carpeting and other floor finishes; (10) kitchen, rest room, laboratory or other similar facilities that exclusively serve the Premises (including plumbing fixtures, toilets, sinks and built-in appliances); and (11) the sprinkler, plumbing, heating, ventilating, air conditioning, lighting, communications, security, drainage, sewage, waste disposal, vertical transportation, fire/life safety, and other mechanical, electronic, physical or informational systems that exclusively serve the Premises, including the parts of each system that are connected to the Mechanical Systems from the common point of distribution for each system to and throughout the Premises.
- (b) **Exclusions from the Premises.** The Premises do not include: (1) any areas above the finished ceiling or integrated ceiling systems, or below the finished floor coverings that are not part of the Leasehold Improvements, (2) janitor's closets, (3) stairways and stairwells to be used for emergency exiting or as Common Areas, (4) rooms for Mechanical Systems or connection of telecommunication equipment, (5) vertical transportation shafts, (6) vertical or horizontal shafts, risers, chases, flues or ducts, and (7) any easements or rights to natural light, air or view.

**2.6 Building Standard.** "Building Standard" means the minimum or exclusive type, brand, quality or quantity of materials Prime Sublandlord designates for use in the Building from time to time.

**2.7 Subtenant's Personal Property.** "Subtenant's Personal Property" means those trade fixtures, furnishings, equipment, work product, inventory, stock-in-trade and other personal property of Subtenant that are not permanently affixed to the Project in a way that they become a part of the Project and will not, if removed, impair the value of the Leasehold Improvements that Subtenant is required to deliver to Sublandlord at the end of the Term under §3.3.

**2.8 Gymnasium Building.** "Gymnasium Building" means that certain building contemplated to be built on the Land that will be used as a gymnasium and initially subleased by Prime Sublandlord to Sublandlord, including all improvements (including HVAC, electrical, gas, telecommunications and sprinkler systems) in such building.

**2.9 FF&E.** Sublandlord also subleases to Subtenant all of the FF&E (as defined in the Prime Sublease). All of the terms and provisions of this Sublease that apply to the Premises shall also apply to the FF&E



except as otherwise provided in this Sublease or to the extent clearly inappropriate. Sublandlord shall deliver the FF&E to the Premises within a reasonable period of time after the Tenant Improvements are Substantially Complete.

### 3. TERM

3.1 **Term.** "Term" means the period that begins on the Commencement Date and ends on the Expiration Date, subject to renewal, extension or earlier termination as may be further provided in this Sublease, provided that the Term shall terminate upon the termination of that certain Urban High School Academy Contract effective as of December 14, 2007, by and between The Grand Valley State University Board of Trustees ("GVSU") and The Public School Academies of Detroit (the "Charter School Contract"); provided, however, that in the event of a termination of the Charter School Contract pursuant to Section 10.7 of the Charter School Contract, Subtenant shall be permitted to attempt to secure another charter for a limited period of time (if, and only if, the Charter School Contract is terminated at the end of a School Year), which charter will permit Subtenant to operate a charter high school, and in the event Subtenant should procure such a charter timely, this Sublease shall be automatically revived and reinstituted. By way of example, if GVSU were to advise Subtenant that it was terminating the Charter School Contract at the end of a School Year (i.e., approximately June 30<sup>th</sup>), Subtenant shall have until August 20<sup>th</sup> of the same year to procure a replacement charter which shall permit it to operate in accordance with the laws of the State of Michigan, and which charter shall be otherwise satisfactory to Sublandlord. In such event, this Sublease shall be automatically revived and reinstituted upon receipt of such new charter authorizing Subtenant to operate and Sublandlord confirming in writing that the new charter is acceptable. Notwithstanding any other term or condition hereof, Subtenant shall not be permitted additional time to secure an alternative charter allowing it to operate if the existing Charter School Contract is terminated during a School Year, and as a result, Subtenant would be operating the charter school unlawfully because it did not possess a current charter as required by state law.

"Month" means a full calendar month of the Term. If the Commencement Date does not fall on the first day of a month, the initial period from the Commencement Date to the last day of such month shall be the "Partial Month". Notwithstanding anything to the contrary contained in this Sublease, in the event the Prime Sublease or that certain Education Management Agreement contemplated to be entered into between the Public School Academies of Detroit ("PSAD") and Subtenant (the "Management Agreement") terminates prior to the expiration or earlier termination of this Sublease, then this Sublease shall terminate simultaneously with the termination of the Prime Sublease or Management Agreement without any liability of Sublandlord to Subtenant. In addition, if the Management Agreement is not entered into by PSAD and Subtenant by January 23, 2009, as such date may be extended in writing by Sublandlord and Subtenant, either party may terminate this Sublease by giving written notice to the other party at any time prior to the date the Management Agreement is entered into by PSAD and Subtenant and upon such termination, neither party shall have any further obligations or liabilities under this Sublease.

- (a) **Commencement Date.** The "Commencement Date" means the date that is the earlier of:
  - (1) The day that Subtenant first conducts business in any part of the Premises; or
  - (2) The later of:
    - (A) The Scheduled Commencement Date, and
    - (B) The day that Sublandlord tenders possession of the Premises to Subtenant with the Tenant Improvements Substantially Complete (defined in Work Letter) or that date that Sublandlord would have tendered possession of the Premises but for delay caused by Subtenant.
- (b) **Expiration Date.** "Expiration Date" means December 31, 2016.
- (c) **Early Occupancy.** Subtenant may not enter the Premises for any purpose until Sublandlord tenders the Premises to Subtenant. If Subtenant conducts business in any part of the Premises before the Scheduled Commencement Date, Subtenant will pay Base and Additional Rent for that period at the rate for the first Month that such Rent is due, without discount or excuse.
- (d) **Late Occupancy.** If Sublandlord fails to tender possession of the Premises to Subtenant by the Scheduled Commencement Date, Sublandlord will not be in default of this Sublease.
- (e) **Confirmation of Term.** Sublandlord shall notify Subtenant of the Commencement Date using a Notice of Sublease Term ("NLT") in the form attached to this Sublease as Exhibit E. Subtenant

shall execute and deliver to Sublandlord the NLT within 10 business days after its receipt, but Subtenant's failure to do so will not reduce Subtenant's obligations or Sublandlord's rights under this Sublease.

- (f) Early Termination Based on Failure to Meet Educational Standards. If (i) Subtenant fails to meet in any School Year during the Term any one or more of the standards relating to its operation of the high school located within the Premises set forth in A, B or C below (those performance standard(s) which Subtenant fails to meet in such School Year are collectively referred to herein as the "Failed Standards"), (ii) Sublandlord, within thirty (30) days after it has been determined that Subtenant failed to meet such Failed Standards, gives Subtenant written notice that the Sublease will terminate if Subtenant fails to meet in the immediately succeeding School Year any of the Failed Standards, and (iii) Subtenant fails to meet in such subsequent School Year any of the Failed Standards (the "Second Failure"), this Sublease shall terminate effective as of the end of the School Year in which the Second Failure occurs unless Sublandlord otherwise revokes such termination:

A. Graduation Rate:

1. 80% of the freshman students entering the high school in the fall of 2009 shall graduate from the high school in June of 2013 or earlier;
2. 83.33% of the freshman students entering the high school in the fall of 2010 shall graduate from the high school in June of 2014 or earlier;
3. 86.67% of the freshman students entering the high school in the fall of 2011 shall graduate from the high school in June of 2015 or earlier;
4. 90% of the freshman students entering the high school in the fall of 2012 shall graduate from the high school in 2016 or earlier; and
5. With respect to any school year following the school year that began in the fall of 2012, either (a) 90% of the freshman students entering the high school in such school year shall graduate from the high school in four (4) years or earlier or (b) the average annual graduation rate (e.g., the percentage of students who graduate from the high school in four years or earlier) for such school year and the two immediately preceding school years is at least 90%;

B. Re-enrollment Rate:

1. For every freshman class subsequent to the class of 2009, the enrollment rate for the following school year and each year thereafter shall be at a rate such that the graduation rates specified in this Section 3.1(f)A can be mathematically obtained; and

C. Post-Secondary Education Rate:

1. 80% of the graduates of the class of 2013 shall enroll in college or other post-secondary studies;
2. 83.3% of the graduates in the class of 2014 shall enroll in college or other post-secondary studies;
3. 86.67% of the graduates of the class of 2015 shall enroll in college or other post-secondary studies;
4. 90% of the graduates of the class of 2016 shall enroll in college or other post-secondary studies; and
5. With respect to the graduates of each class after the class of 2016, either (a) 90% of the graduates of such class shall enroll in college or other post-secondary studies or (b) the average annual percentage of the graduates of such class and the two immediately preceding classes that are enrolled in college or other post-secondary studies is at least 90%.

If (i) the enrollment of any incoming freshman class for any School Year during the term of this Lease shall be less than 100 students, (ii) the average daily attendance rate during any School Year is less than 90% or (iii) any senior class at the high school shall have an average ACT score of less than 18, then an action plan will be developed by Subtenant and upon approval by PSAD, will be pursued by Subtenant. In no event shall the occurrence of any of the events described in (i), (ii) or (iii) of the immediately preceding sentence or the failure to develop or pursue any action plan described above constitute a default of this Sublease by Subtenant. Sublandlord and Subtenant shall develop mutually acceptable guidelines for calculating the Graduation, Re-enrollment and Post-Secondary Education Rates.

(g) Early Termination by Subtenant. Subtenant may terminate this Sublease effective as of the day immediately preceding the ten year anniversary of the Commencement Date ("Early Termination Date") by giving written notice thereof to Sublandlord at least 30 days prior to the Early Termination Date.

**3.2 Holdover.** If Subtenant keeps possession of the Premises after the Expiration Date (or earlier termination of this Sublease), without Sublandlord's prior written consent (a "Holdover"), which may be withheld in its sole discretion, then in addition to the remedies available elsewhere under this Sublease or by law, Subtenant will be a tenant-at-sufferance and must comply with all of Subtenant's obligations under this Sublease, except that for each Month of any Holdover, Subtenant will pay 150% of the Base Rent payable for the last Month of the Term (or that would have been payable but for abatement or excuse), without proration for any partial Month of Holdover. Subtenant shall indemnify and defend Sublandlord from and against all claims and damages, both consequential and direct, that Sublandlord suffers due to Subtenant's failure to return possession of the Premises to Sublandlord at the end of the Term. Sublandlord's deposit of Subtenant's Base Rent payment during any Holdover will not constitute Sublandlord's consent to a Holdover, or create or renew any tenancy.

**3.3 Condition on Expiration.**

- (a) Return of the Premises. At the end of the Term, Subtenant will return possession of the Premises and FF&E to Sublandlord vacant, free of Subtenant's Personal Property, in broom-clean condition, and with all Leasehold Improvements and FF&E in good working order and repair (excepting ordinary wear and tear). In addition, Sublandlord may, if required by Prime Sublandlord, require Subtenant, by notice at least 20 days before the expiration of the Term, to remove (and restore the Premises damaged by removal of) (i) any Subtenant's Wiring, or (ii) any item of Leasehold Improvements or Alterations that Prime Sublandlord required to be removed (or reserved the right to so require) at the time of approval of the installation of same or for which Subtenant failed to obtain Sublandlord's written consent under §8.1(a).
- (b) Correction by Sublandlord. If Subtenant fails to return possession of the Premises to Sublandlord in the condition required under (a), then Subtenant shall reimburse Sublandlord for the costs incurred by Sublandlord to put the Premises in the condition required under (a), plus an administration fee of five percent (5%) of such costs.
- (c) Abandoned Property. Subtenant's Personal Property left behind in the Premises after the end of the Term will be considered abandoned. Sublandlord may move, store, retain or dispose of these items at Subtenant's expense, plus an administration fee of five percent (5%) of such expenses.

**4. RENT**

**4.1 Base Rent.** During the Term, Subtenant shall pay all Base Rent in advance, in equal Monthly installments, on the Commencement Date and thereafter by the 1<sup>st</sup> of each Month. Base Rent for any Partial Month will be prorated. Subtenant may, at its election, pay such Base Rent directly to Prime Sublandlord and payment of Base Rent directly to Prime Sublandlord shall constitute payment to Sublandlord for purposes of this Sublease.

**4.2 Additional Rent.** Subtenant shall pay when due, directly to Prime Sublandlord, all "Additional Rent" payable by Sublandlord to Prime Sublandlord under Section 4.2 of the Prime Sublease. If any sum is paid by Prime Sublandlord to Sublandlord pursuant to the last sentence of Section 4.2 (b) of the Prime Sublease, Sublandlord shall promptly pay such amount to Subtenant. Sublandlord shall promptly furnish Subtenant with all notices received by Sublandlord from Prime Sublandlord regarding estimates of Additional Rent and Special Assessments and year end statements of the actual Additional Rent. If Subtenant gives Sublandlord written notice objecting to any items of Additional Rent set forth in the annual statement within ninety (90) days after Sublandlord's receipt of such statement, Sublandlord will give Prime Sublandlord written notice objecting to such

statement, based on the items objected to by Subtenant, within ninety (90) days after Sublandlord's receipt of such statement.

**4.3 Other Taxes.** Upon demand, Subtenant will reimburse Sublandlord for taxes paid by Sublandlord on (a) Subtenant's Personal Property, (b) Rent, (c) Subtenant's occupancy of the Premises, or (d) this Sublease, or (e) the FF&E. If Subtenant cannot lawfully reimburse Sublandlord for these taxes, then the Base Rent will be increased to yield to Sublandlord the same amount after these taxes were imposed as Sublandlord would have received before these taxes were imposed. In addition, Subtenant will pay directly to Prime Sublandlord all amounts reimbursable by Sublandlord to Prime Sublandlord pursuant to Section 4.3 of the Prime Sublease.

**4.4 Terms of Payment.** "Rent" means all amounts payable by Subtenant under this Sublease and the exhibits, including Base Rent and Additional Rent. If a time for payment of an item of Rent is not specified in this Sublease, then Subtenant will pay Rent within 30 days after receipt of Sublandlord's statement or invoice. Unless otherwise provided in this Sublease, Subtenant shall pay Rent without notice, demand, deduction, abatement or setoff, in lawful U.S. currency, at Sublandlord's Billing Address. Sublandlord will send invoices payable by Subtenant to Subtenant's Billing Address; however, neither Sublandlord's failure to send an invoice nor Subtenant's failure to receive an invoice for Base Rent (and installments of Estimated Additional Rent (as defined in the Prime Sublease)) will relieve Subtenant of its obligation to timely pay Base Rent (and installments of Estimated Additional Rent). Each partial payment by Subtenant shall be deemed a payment on account. No endorsement or statement on any check or any accompanying letter shall constitute an accord and satisfaction, affect Sublandlord's right to collect the full amount due, or require Sublandlord to apply any payment to other than Rent earliest due. No payment by Subtenant to Sublandlord will be deemed to extend the Term or render any notice, pending suit or judgment ineffective. By notice to the other, each party may change its Billing Address. Any payment made by Subtenant to a lockbox maintained by Prime Sublandlord for receipt of payment of Rent shall not be deemed to have been accepted by Prime Sublandlord or Sublandlord provided such payment is returned to Subtenant within ten (10) days after Prime Sublandlord or Sublandlord receives notice that the payment has been received into the lockbox.

**4.5 Late Payment.** If Sublandlord is charged a "Late Charge" under the Prime Sublease because Subtenant failed to pay Sublandlord when due Base Rent, or Subtenant failed to pay to Prime Sublandlord when due any Additional Rent or any Base Rent if Subtenant elected to pay such Base Rent directly to Prime Sublandlord, Subtenant shall pay each such Late Charge directly to Prime Sublandlord.

## **5. USE & OCCUPANCY**

**5.1 Use.** Subtenant shall use and occupy the Premises only for the Use and for no other purpose without Sublandlord's written consent, which consent may be withheld in Sublandlord's sole and absolute discretion. Sublandlord does not represent or warrant that the Project is suitable for the conduct of Subtenant's particular business.

### **5.2 Compliance with Laws and Directives.**

(a) Subtenant's Compliance. Subject to the remaining terms of this Sublease, Subtenant shall comply at Subtenant's expense with all directives of Prime Sublandlord's insurers, governing authorities or laws concerning:

- (1) The Leasehold Improvements, FF&E and/or Alterations,
- (2) Subtenant's use or occupancy of the Premises,
- (3) Subtenant's employer/employee obligations,
- (4) A condition created by Subtenant or any of its agents, employees, contractors, or invitees,
- (5) Subtenant's failure to comply with this Sublease,
- (6) The negligence of Subtenant or any of its agents, employees, invitees or contractors, or
- (7) Any chemical wastes, contaminants, pollutants or substances that are hazardous, toxic, infectious, flammable or dangerous, or regulated by any local, state or federal statute, rule, regulation or ordinance for the protection of health or the environment, including but not limited to any applicable provisions under the Natural Resources and Environmental Protection Act of 1994 (Act 451), Part 201, including the Administrative

Rules promulgated thereunder as most recently amended on December 21, 2002 ("Hazardous Materials") that are introduced to the Project, handled or disposed by Subtenant or any of its agents, employees, invitees or contractors.

(b) Environmental Provisions.

- (1) Subtenant shall not "treat", "store" or "dispose" of any "hazardous substances," "hazardous wastes" or "toxic substances" as those terms are defined under CERCLA, 42 U.S.C. 9601, et seq., RCRA 42 U.S.C. 6901, et seq., or TSCA, 15 U.S.C. 2601, et seq., or under similar Michigan law on, at or below the Premises or Project.
- (2) Use of ground water at, in or under the Project, including potable and non-potable uses, is prohibited.

**5.3 Occupancy.** Subtenant shall not interfere with Building services or other subtenants' rights to quietly enjoy their respective premises or the Common Areas. Subtenant shall not make or continue a nuisance, including any objectionable odor, noise, fire hazard, vibration, or wireless or electromagnetic transmission. Subtenant will not maintain any Leasehold Improvements or use the Premises in a way that increases the cost of insurance required under §9.2, or requires insurance in addition to the coverage required under §9.2.

## **6. SERVICES & UTILITIES**

**6.1 Prime Sublandlord Services.** While Sublandlord has no obligation to provide any of the Standard Services (as defined in the Prime Sublease) or any additional services as described in the Prime Sublease, Sublandlord shall, upon Subtenant's request and at Subtenant's expense, use reasonable efforts to cause Prime Sublandlord to provide such services. Sublandlord may not request that the Prime Sublandlord furnish any additional services described in Section 6.2 of the Prime Sublease unless so requested by Subtenant. Subtenant shall pay, when due, directly to Prime Sublandlord all rent payable by Sublandlord to Prime Sublandlord pursuant to Section 6.2 of the Prime Sublease. Subtenant shall, at Subtenant's expense, if required by Prime Sublandlord, upgrade or modify existing Mechanical Systems serving the Premises or the Leasehold Improvements to the extent necessary to meet Subtenant's excess requirements (including installation of Building Standard meters to measure the same).

**6.2 Utilities Billing.** Subtenant's total consumption of electricity in the Premises, including lighting and convenience outlets, electricity consumed in operating the heat pumps that furnish air conditioning and heat to the Premises, and gas furnished to the Premises shall be separately submetered to the Premises. Subtenant shall pay, when due, directly to Prime Sublandlord, the Utility Rent (as defined in Section 6.3 of the Prime Sublease). Sublandlord shall immediately forward to Subtenant any invoice for or estimate of Utility Rent received by Sublandlord from Prime Sublandlord.

**6.3 Telecommunication Services.** Subtenant will contract directly with third party providers and will be solely responsible for paying for all telephone, data transmission, video and other telecommunication services ("Telecommunication Services") subject to the following:

- (a) Providers. Each Telecommunication Services provider that does not already provide service to the Building shall be subject to Prime Sublandlord's approval, which Prime Sublandlord may withhold in Prime Sublandlord's reasonable discretion. Without liability to Subtenant, the license of any Telecommunication Services provider servicing the Building may be terminated under the terms of the license, or not renewed upon the expiration of the license.
- (b) Subtenant's Wiring. Prime Sublandlord may, in its sole discretion, designate the location of all wires, cables, fibers, equipment, and connections ("Subtenant's Wiring") for Subtenant's Telecommunication Services, and restrict and control access to telephone cabinets and rooms. Subtenant may not use or access the Base Building, Common Areas or roof for Subtenant's Wiring without Prime Sublandlord's prior written consent, which Prime Sublandlord may withhold in Prime Sublandlord's sole discretion, or for which Prime Sublandlord may charge a fee determined by Prime Sublandlord.
- (c) No Beneficiaries. This §6.4 is solely for Subtenant's benefit, and no one else shall be considered a beneficiary of these provisions.

## 7. REPAIRS

**7.1 Subtenant's Repairs.** Except as provided in Articles 10 and 12, during the Term Subtenant shall, at Subtenant's cost, repair, maintain and replace, if necessary, the Leasehold Improvements and FF&E and keep the Premises and FF&E in good order, condition and repair. Subtenant's work under this §7.1 must be (a) approved by Prime Sublandlord before commencement, (b) supervised by Prime Sublandlord at Subtenant's expense, if Prime Sublandlord reasonably so requires, and (c) performed in compliance with law and in a first-class manner with materials of at least Building Standard. If Subtenant fails to perform any of its obligations under this §7.1, then Sublandlord may perform such obligations and Subtenant will pay as Rent to Sublandlord the cost of such performance, including an amount sufficient to reimburse Sublandlord for overhead and supervision, within 10 days after the date of Sublandlord's invoice. For purpose of performing such obligations, or to inspect the Premises, Sublandlord may enter the Premises upon not less than two days' prior notice to Subtenant (except in cases of actual or suspected emergency, in which case no prior notice will be required) without liability to Subtenant for any loss or damage incurred as a result of such entry, provided that Sublandlord will take reasonable steps in connection with such entry to minimize any disruption to Subtenant's business or its use of the Premises. Subtenant will notify Sublandlord (and may notify Prime Sublandlord) promptly after Subtenant learns of (x) any fire or other casualty in the Premises, (y) any damage to or defect in the Premises, including the fixtures and equipment in the Premises, for the repair of which Prime Sublandlord might be responsible, and (z) any damage to or defect in any parts or appurtenances of the Building's sanitary, electrical heating, air conditioning, elevator or other systems located in or passing through the Premises.

**7.2 Prime Sublandlord's Repairs.** While Sublandlord is not obligated to perform any of Prime Landlord's obligations under Section 7.2 of the Prime Sublease, Sublandlord shall, upon Subtenant's request and at Subtenant's expense, use reasonable efforts to cause Prime Sublandlord to perform its obligations under such Section of the Prime Sublease. Subtenant may not repair or maintain the Project on Prime Sublandlord's or Sublandlord's behalf or offset any Rent for any repair or maintenance of the Project that is undertaken by Subtenant.

## 8. ALTERATIONS

**8.1 Alterations by Subtenant.** "Alterations" mean any modification, addition or improvement to the Premises, FF&E or Leasehold Improvements made by Subtenant, including any modification to the Base Building or Common Areas required by law or governing authority as a condition of performing the work. Alterations do not include work performed under a Work Letter that is part of this Sublease. Alterations are made at Subtenant's sole cost and expense, subject to the following:

- (a) Consent Required. All Alterations require Prime Sublandlord's and Sublandlord's prior written consent, which consent of Sublandlord may not be unreasonably withheld. Unless Subtenant obtains Prime Sublandlord's prior written consent to the Alterations becoming part of the Premises to be tendered to Prime Sublandlord on termination of the Prime Sublease, Sublandlord may, if required by Prime Sublandlord, require Subtenant to remove Alterations and restore the Premises under §3.3 upon termination of this Sublease.
- (b) Performance of Alterations. Alterations shall be performed by Subtenant in a good and workmanlike manner according to plans and specifications approved by Sublandlord. All Alterations shall comply with law and insurance requirements. Prime Sublandlord's designated contractors must perform Alterations affecting the Base Building or Mechanical Systems; and, all other work will be performed by qualified contractors that meet Prime Sublandlord's insurance requirements and are otherwise approved by Prime Sublandlord. Promptly after completing Alterations, Subtenant will deliver to Prime Sublandlord and Sublandlord "as-built" CAD plans, proof of payment, and unconditional waivers of lien from all contractors, subcontractors, sub-subcontractors and suppliers.
- (c) Bonding. If requested by Prime Sublandlord, before commencing Alterations Subtenant shall at Subtenant's cost obtain bonds, or deposit with Prime Sublandlord other security acceptable to Prime Sublandlord for the payment and completion of the Alterations. These bonds or other security shall be in form and amount acceptable to Sublandlord.

- (d) Alterations Fee. Subtenant shall pay directly to Prime Sublandlord all Alterations Fees (as defined in the Prime Sublease) and costs payable by Sublandlord to Prime Sublandlord in connection with Subtenant's Alterations.

## **8.2 Intentionally Omitted.**

**8.3 Liens and Disputes.** Subtenant will keep title to the Project free of any liens concerning the Leasehold Improvements, Alterations, or Subtenant's Personal Property, and will promptly take whatever action is required to have any of these liens released and removed of record (including, as necessary, posting a bond or other deposit). To the extent legally permitted, each contract and subcontract for Alterations will provide that no lien attaches to or may be claimed against the Project. Subtenant will indemnify Sublandlord for costs and expenses that Sublandlord reasonably incurs because of Subtenant's violation of this §8.3.

# **9. INSURANCE**

## **9.1 Subtenant's Insurance.**

- (a) Subtenant's Coverage. Before taking possession of the Premises for any purpose (including construction of any Alterations, if any) and during the Term, Subtenant will provide and keep in force the following coverage:
- (1) Commercial general liability insurance insuring Subtenant's use and occupancy of the Premises and use of the Project, and covering personal and bodily injury, death, and damage to others' property of not less than the Liability Limit. Each of these policies shall include cross liability and severability of interests clauses, and be written on an occurrence, and not claims-made, basis. Each of these policies shall name Sublandlord, Prime Landlord, Prime Sublandlord, the Building property manager, each secured lender, and any other party reasonably designated by Prime Sublandlord and Sublandlord as an additional insured ("Additional Insured"). The commercial general liability insurance carried by Sublandlord or other Additional Insureds pursuant to the terms of this Sublease shall be non contributing and Subtenant's commercial general liability insurance shall be primary to any such insurance carried by Sublandlord or other Additional Insureds.
  - (2) All risk insurance (including standard extended coverage endorsement perils, leakage from fire protective devices and other water damage) covering the full replacement cost of the Leasehold Improvements, FF&E and Subtenant's Personal Property. Each of these policies shall name Prime Sublandlord, Sublandlord and each Additional Insured as loss payee to the extent of their interest in the Leasehold Improvements and FF&E. Each of these policies shall include a provision or endorsement in which the insurer waives its right of subrogation against Prime Sublandlord, Sublandlord and each Additional Insured.
  - (3) Insurance covering the perils described in (2) for Subtenant's loss of income or insurable gross profits with a limit not less than Subtenant's annual Rent.
  - (4) If any boiler or machinery is operated solely to provide service to the Premises, boiler and machinery insurance, with a limit of at least the Liability Limit.
  - (5) Insurance required by law, including workers' compensation insurance.
  - (6) Employers liability insurance with limits not less than \$1 million/each accident; \$1million/disease - each employee; \$1 million/disease - aggregate.
  - (7) Commercial automobile liability insurance covering all owned, hired, and non-owned vehicles with a combined single limit of not less than \$1 million for each accident or person.
  - (8) Insurance covering the Leasehold Improvements, FF&E and Subtenant's Personal Property against loss or damage due to earthquake or difference in conditions perils. Subtenant may elect to self-insure this coverage. If Subtenant does not elect to self-insure this coverage, then each of these policies shall name Prime Sublandlord, Sublandlord and each Additional Insured a loss payee to the extent of their interest in the Leasehold Improvements and FF&E.



- (b) Insurers and Terms. Each policy required under (a) shall be written with insurance companies licensed to do business in the state in which the Building is located having a rating of not less than A+ and a Financial Size Class ("FSC") of at least VIII by A. M. Best Company, and be on terms that are acceptable to Prime Sublandlord.
- (c) Proof of Insurance. Subtenant shall provide Sublandlord with certificates of insurance or other reasonable proof that the coverage required under (a) is in effect. Subtenant will provide reasonable proof of renewal or replacement at least 30 days prior to any policy expiration. Failure of Subtenant to provide any insurance required by this Sublease shall not be construed as a waiver of liability or any limit of damages, the parties expressly agreeing that the requirement to carry insurance does not deem that said insurance is adequate to cover the damages so insured.
- (d) Waiver of Subrogation. Each policy required under (a) shall include a provision or endorsement in which the insurer waives its right of subrogation against Prime Sublandlord, Sublandlord and each Additional Insured.

**9.2 Sublandlord's Insurance.**

Sublandlord's Coverage. While Sublandlord has no obligation to maintain the insurance required to be maintained by Prime Sublandlord pursuant to Section 9.2 of the Prime Sublease, Sublandlord shall, upon Subtenant's request and at Subtenant's expense, use reasonable efforts to cause the Prime Sublandlord to maintain such insurance.

## **10. DAMAGE OR DESTRUCTION**

**10.1 Damage and Repair.** If all or any part of the Project is damaged by fire or other casualty and the Sublease is not terminated pursuant to a termination of the Prime Sublease, Subtenant will repair and restore the Leasehold Improvements and FF&E with reasonable promptness to the condition existing prior to such damage, but not less than current Building Standards, except for modifications required by law.

While Sublandlord has no obligation to perform Prime Sublandlord's repair and restoration obligations under Section 10.1 of the Prime Sublease, Sublandlord shall, upon Subtenant's request and at Subtenant's expense, use reasonable efforts to cause Prime Sublandlord to perform such obligations.

**10.2 Rent Abatement.** If as a result of the damage or destruction under §10.1 any part of the Premises becomes Untenantable, which shall mean the Subtenant is actually unable to use all or any portion of the Premises in the normal conduct of its business, and Subtenant does not actually use the Untenantable part of the Premises for more than 3 consecutive business days, then Subtenant's Base Rent and Additional Rent for the Untenantable part of the Premises not used by Subtenant shall, to the extent Prime Sublandlord receives the proceeds of loss of rental income insurance, be abated from the 4<sup>th</sup> consecutive business day until the earlier of the date (a) the damaged or destroyed part of the Premises becomes tenantable, or (b) 15 days after Prime Sublandlord completes its required repairs and restoration. Subtenant's sole remedy against Sublandlord for damage or destruction of any part of the Project is abatement of Base Rent and Additional Rent under this §10.2, and Sublandlord will not be liable to Subtenant for any other amount, including damages to Subtenant's Personal Property, consequential damages, actual or constructive eviction, or abatement of any other item of Rent.

## **11. INDEMNITY**

**11.1 Claims.** "Claims" mean any and all liabilities, losses, claims, demands, damages or expenses that are suffered or incurred by a party, including attorneys' fees reasonably incurred by that party in the defense or enforcement of the rights of that party.

**11.2 Sublandlord's Waivers and Subtenant's Indemnity.**

- (a) Sublandlord's Waivers. Sublandlord waives any Claims against Subtenant and its Affiliates for perils insured or required to be insured by Prime Sublandlord under subsections (2) and (3) of §9.2(a) of the Prime Sublease, except to the extent caused by the gross negligence or willful misconduct of Subtenant or its Affiliates.
- (b) Subtenant's Indemnity. Unless waived by Sublandlord under §11.2(a), Subtenant will indemnify and defend Prime Sublandlord, Sublandlord and Prime Landlord and their respective Affiliates and hold each of them harmless from and against Claims arising from:



- (1) Any accident or occurrence on or about the Premises, except to the extent caused by Prime Sublandlord's, Sublandlord's or Prime Landlord's or any of their respective Affiliate's gross negligence or willful misconduct; or
- (2) Subtenant's negligence or willful misconduct; or
- (3) Any claim for commission or other compensation by any person for services rendered to Subtenant in procuring this Sublease.

#### **11.3 Subtenant's Waivers and Sublandlord's Indemnity.**

- (a) Subtenant's Waivers. Subtenant waives any Claims against Prime Sublandlord, Sublandlord and Prime Landlord and their respective Affiliates for:

- (1) Perils insured or required to be insured by Subtenant under subsections (2), (3) and (8) of §9.1(a), except to the extent caused by the gross negligence or willful misconduct of Prime Sublandlord, Sublandlord or Prime Landlord or their respective Affiliates, but in all events Subtenant waives any Claims for any special or consequential damages (such as interruption of business, loss of income, or loss of opportunity); or
- (2) Damage caused by any public utility, public work, other subtenants or occupants of the Project, or persons other than Prime Sublandlord, Sublandlord or Prime Landlord or any of their respective Affiliates; or
- (3) Damages in excess of the insurance Sublandlord maintains under §9.1.

- (b) Sublandlord's Indemnity. Unless waived by Subtenant under (a), Sublandlord will indemnify and defend Subtenant and its Affiliates and hold each of them harmless from and against Claims arising from:

- (1) Sublandlord's gross negligence or willful misconduct; or
- (2) Any claim for commission or other compensation by any person for services rendered to Sublandlord in procuring this Sublease.

**11.4 Affiliates Defined.** "Affiliates" means with respect to a party (a) that party's partners, co-members and joint venturers, (b) each corporation or other entity that is a parent or subsidiary of that party, (c) each corporation or other entity that is controlled by or under common control of a parent of such party, and (d) the directors, officers, employees and agents of that party and each person or entity described in this §11.4(a-c).

**11.5 Survival of Waivers and Indemnities.** Sublandlord's and Subtenant's waivers and indemnities under §11.2 and §11.3 will survive the expiration or early termination of this Sublease.

## **12. CONDEMNATION**

**12.1 Taking.** "Taking" means acquiring of all or part of the Project for any public or quasi-public use by exercise of a right of eminent domain or under any other law, or any sale in lieu thereof. If a Taking occurs:

- (a) Total Taking. If because of a Taking substantially all of the Premises are Untenantable for substantially all of the remaining Term, then the Sublease terminates on the date of the Taking.
- (b) Partial Taking. If a Taking does not cause the Sublease to be terminated under (a), then Prime Sublandlord is responsible under the Prime Sublease to restore (and alter, as necessary) the Premises to be tenantable, unless this Sublease is terminated as a result of a termination of the Prime Sublease or this Sublease is terminated by Subtenant under the following circumstances:
  - (1) Subtenant may terminate the Sublease upon 60 days prior written notice to Sublandlord if the Taking causes more than 40% of the Premises to be Untenantable for the remainder of the Term and Subtenant cannot reasonably operate Subtenant's business for the Use in the remaining Premises.
- (c) If the Sublease is not terminated under (a) or (b), the Rent will be reduced for the term of the Taking based upon the RSF of the Premises made Untenantable by the Taking.

**12.2 Awards.** Prime Sublandlord is entitled to the entire award for any claim for a taking of any interest in this Sublease or the Project, without deduction or offset for Subtenant's estate or interest; however, Subtenant may make a claim for relocation expenses and damages to Subtenant's Personal Property and business to the extent that Subtenant's claim does not reduce Prime Sublandlord's award.

### **13. SUBTENANT TRANSFERS**

**13.1 Transfer Defined.** "Transfer" means any:

- (a) Sublease of all or part of the Premises, or assignment, mortgage, hypothecation or other conveyance of an interest in this Sublease;
- (b) Use of the Premises by anyone other than Subtenant with Subtenant's consent;
- (c) Change in Subtenant's form of organization (e.g., a change from a partnership to limited liability company);
- (d) Transfer of 51% or more of Subtenant's assets, shares (except shares transferred in the normal course of public trading), membership interests, partnership interests or other ownership interests; or
- (e) Transfer of effective control of Subtenant.

**13.2 Consent Required.** Each proposed Transfer requires Sublandlord's and Prime Sublandlord's prior written consent, which consent may be withheld in their respective sole and absolute discretion except as otherwise provided below, in which case the parties will proceed as follows:

- (a) **Subtenant's Notice.** Subtenant shall notify Sublandlord at least 30 days prior to the proposed Transfer of the name and address of the proposed transferee and the proposed use of the Premises, and, in the case of an assignment of this Sublease, include in the notice the Transfer documents and copies of the proposed transferee's balance sheets and income statements (both current and for the past 2 years).
- (b) **Sublandlord's Rights.** Within 30 days after receipt of Subtenant's complete notice, Sublandlord may:
  - (1) If the proposed Transfer is either an assignment of this Sublease or sublease of substantially all of the Premises, terminate this Sublease as of the proposed Transfer date, in which case neither Sublandlord or Subtenant shall have any further obligations or liabilities to the other from and after the date of such termination except for those liabilities or obligations which arose prior to the date of termination or which expressly survive the termination of this Sublease; or
  - (2) If the proposed Transfer is a sublease of all of the Premises or any part of the Premises that will be separately demised and have its own entrance from the Common Areas, exercise a right of first refusal to sublease such portion of the Premises at the lesser of (A) the Rent (prorated for subletting part of the Premises), or (B) the rent payable in the proposed Transfer; or
  - (3) Consent or deny consent to the proposed Transfer, provided, however, that Sublandlord shall not unreasonably withhold its consent to a proposed Transfer to a transferee whose proposed use is compatible with an integrated educational community.

**13.3 Payments to Sublandlord.** Subtenant shall pay Sublandlord 100% of Transfer receipts that exceed Subtenant's Rent (on a per square foot basis); after Subtenant is reimbursed for Subtenant's reasonable and customary out-of-pocket costs incurred in the Transfer, including attorneys' fees, Alterations, and broker commissions.

**13.4 Effect of Transfers.** No Transfer releases Subtenant or any guarantor of this Sublease from any Sublease obligation. Sublandlord's acceptance of a payment from any person or entity other than Subtenant that occupies the Premises does not waive Subtenant's obligations under this Article 13. If Subtenant is in default of this Sublease, Sublandlord may proceed against Subtenant without exhausting any remedies against any transferee and may require (by written notice to any transferee) any transferee to pay Transfer rent owed Subtenant directly to

Sublandlord (which Sublandlord will apply against Subtenant's Sublease obligations). Termination of this Sublease for any reason will not result in a merger. Each sublease will be deemed terminated upon termination of this Sublease unless Sublandlord notifies the subtenant in writing of Sublandlord's election to assume any sublease, in which case the subtenant shall attorn to Sublandlord under the executory terms of the sublease.

#### **14. SUBLANDLORD TRANSFERS**

**14.1 Sublandlord's Transfer.** Sublandlord's right to transfer any interest in the Project or this Sublease is not limited by this Sublease. Upon any such transfer, Subtenant will attorn to Sublandlord's transferee and Sublandlord will be released from liability under this Sublease, except for any Sublease obligations accruing before the transfer that are not assumed by the transferee.

**14.2 Subordination.** This Sublease is, and will at all times be, subject and subordinate to the Prime Lease and Prime Sublease and each ground lease, mortgage, deed to secure debt or deed of trust now or later encumbering the Building or any other portion of the Project, including each renewal, modification, supplement, amendment, consolidation or replacement thereof (each, an "Encumbrance"). At Prime Sublandlord's request, Subtenant will, without charge, promptly execute, acknowledge and deliver to Prime Sublandlord (or, at Sublandlord's request, the Encumbrance holder) any instrument reasonably necessary to evidence this subordination. Notwithstanding the foregoing, each Encumbrance holder may unilaterally elect to subordinate its Encumbrance to this Sublease.

**14.3 Attornment.** Subtenant will automatically attorn to any transferee of Sublandlord's interest in the Project that succeeds Sublandlord by reason of a termination, foreclosure or enforcement proceeding of an Encumbrance, or by delivery of a deed in lieu of any foreclosure or proceeding (a "Successor Sublandlord"). In this event, the Sublease will continue in full force and effect as a direct lease between the Successor Sublandlord and Subtenant on all of the terms of this Sublease, except that the Successor Sublandlord shall not be:

- (a) Liable for any obligation of Sublandlord under this Sublease, or be subject to any counterclaim, defense or offset accruing before Successor Sublandlord succeeds to Sublandlord's interest;
- (b) Bound by any modification or amendment of this Sublease made without Successor Sublandlord's consent;
- (c) Bound by any prepayment of more than one Month's Rent; or
- (d) Obligated to perform any improvements to the Premises (or provide an allowance therefor). Upon Successor Sublandlord's request, Subtenant will, without charge, promptly execute, acknowledge and deliver to Successor Sublandlord any instrument reasonably necessary or required to evidence such attornment.

**14.4 Estoppel Certificate.** Within 10 days after receipt of Prime Sublandlord's written request, Subtenant (and each guarantor and transferee of an interest in the Sublease) will execute, acknowledge and deliver to Sublandlord a certificate upon which Prime Sublandlord and each existing or prospective Encumbrance holder may rely confirming the following (or any exceptions to the following):

- (a) The Commencement Date and Expiration Date;
- (b) The documents that constitute the Sublease, and that the Sublease is unmodified and in full force and effect;
- (c) The date through which Base Rent, Additional Rent, and other Rent has been paid;
- (d) That neither Sublandlord nor Subtenant is in default of this Sublease;
- (e) That Subtenant has accepted the Premises;
- (f) That Subtenant solely occupies the Premises; and
- (g) Such other matters concerning this Sublease or Subtenant's occupancy that Sublandlord may reasonably require.

**14.5 Sublandlord's Compliance with Prime Sublease.** Sublandlord shall perform and observe all of its covenants and obligations under the Prime Sublease as and when due except to the extent Subtenant is otherwise liable under this Sublease to perform the same.

## 15. DEFAULT AND REMEDIES

**15.1 Subtenant's Default.** Subtenant is in default ("Default") of this Sublease if any of the following occur:

- (a) Subtenant fails to pay Rent when due, and the failure continues for 10 days after notice to Subtenant of the failure.
- (b) Subtenant fails to perform a non-monetary Sublease obligation and the failure continues for 20 days after notice to Subtenant of the failure, except that (1) In an emergency Sublandlord may require Subtenant to perform this obligation in a reasonable time of less than 20 days, or (2) If Subtenant begins performing this obligation within 20 days after notice to Subtenant of this failure, but it will reasonably take more than 20 days to complete performing the obligation, then Subtenant will have a reasonable amount of additional time to complete performing the obligation so long as Subtenant diligently pursues the performance of such obligation to completion.
- (c) Subtenant consummates a Transfer that violates Article 13.
- (d) Subtenant fails to discharge any attachment or levy on Subtenant's interest in this Sublease within 15 days after the attachment or levy encumbers this Sublease.
- (e) Subtenant fails to cause any of the following proceedings to be vacated or dismissed within 60 days after they are commenced: (1) the appointment of a receiver or trustee of the assets of Subtenant or any guarantor of this Sublease, (2) the voluntary or involuntary bankruptcy of Subtenant or any guarantor of this Sublease, or (3) any assignment for the benefit of creditors of the assets of Subtenant or any guarantor of this Sublease.
- (f) Subtenant vacates or abandons substantially all of the Premises.
- (g) Subtenant is named on the list of Specially Designated Nationals and Blocked Persons maintained by the Office of Foreign Assets Control of the United States Department of the Treasury or any such similar list maintained by the state or federal government.
- (h) The failure of Subtenant to establish policies required by the Charter School Contract in a timely manner, as required by such Charter School Contract, and such failure continues for twenty (20) days after notice to Subtenant of the failure.

**15.2 Remedies.** If Default occurs, Sublandlord shall have the rights and remedies set forth in this Sublease which shall be distinct, separate and cumulative and shall not operate to exclude or deprive Sublandlord of any other right or remedy allowed it by law or at equity.

- (a) Sublandlord may terminate this Sublease by giving notice to Subtenant of Sublandlord's election to do so, in which event the Term of this Sublease shall end, and all right, title and interest of Subtenant hereunder shall expire, on the date stated in such notice. In no event shall either re-entry or the taking of possession of the Premises by Sublandlord be construed as an election by Sublandlord to terminate this Sublease. Written notice alone shall be proof of any such election by Sublandlord. No termination of this Sublease shall terminate Subtenant's obligations under this Sublease to pay Rent, which obligation shall survive such termination.
- (b) Sublandlord may terminate Subtenant's right to possession of the Premises without terminating this Sublease by giving notice to Subtenant that Subtenant's right to possession shall end on the date stated in such notice, and all right of Subtenant to possession of the Premises or any part thereof shall cease on the date stated in such notice. An election by Sublandlord to terminate Subtenant's right to possession of the Premises without terminating the Sublease shall not preclude a subsequent election by Sublandlord to terminate the Sublease.
- (c) If Sublandlord terminates this Sublease as provided in Section 15.2 (a) or if Sublandlord terminates Subtenant's right to possession of the Premises as provided in Section 15.2(b), (1) Subtenant shall surrender possession, vacate the Premises and immediately deliver possession to Sublandlord; and (2) Sublandlord may, with due process of law, re-enter and take possession of the Premises without being liable for prosecution for such action or being deemed guilty of any manner of

trespass, and without diminishing any remedies for collection of Rent and without relinquishing any other right of Sublandlord.

- (d) Sublandlord may enforce the provisions of this Sublease and may enforce and protect the rights of Sublandlord by a suit or suits in equity or at law for the specific performance of any covenant or agreement contained in this Sublease, or for the enforcement of any other appropriate legal or equitable remedy, including recovery of all moneys due or to become due from Subtenant under any of the provisions of this Sublease.
- (e) Sublandlord may, but shall not be obligated to, cure Subtenant's Default by making any payment or performing such other act to the extent Sublandlord may deem desirable. Any such cure by Sublandlord shall be without notice and shall not waive or release Subtenant from any obligation under this Sublease. Subtenant covenants and agrees to pay Sublandlord, upon demand, all advances, costs and expenses incurred by Sublandlord in connection with such cure, including reasonable attorney's fees, together with interest at the Default Rate, from the date such are incurred by Sublandlord to the date of payment to Sublandlord.

**15.3 Remedies for Recovery of Rent and Damages.**

- (a) If Sublandlord terminates the right of Subtenant to possession of the Premises pursuant to Section 15.2, regardless of whether Sublandlord previously terminated or subsequently terminates this Sublease:
  - (1) Sublandlord shall be entitled to recover any and all Rent due and unpaid as of the date of repossession by Sublandlord. Subtenant shall immediately pay to Sublandlord all such Rent.
  - (2) (A) Sublandlord shall, if Prime Sublandlord terminated Sublandlord's right to possession of the Premises pursuant to Section 15.2 of the Prime Sublease and has made a demand on Sublandlord for the lump sum payment described in Section 15.3(a)(2) of the Prime Sublease, be entitled to recover in one lump sum payment all unpaid Rent which would have accrued after the date of possession for the remainder of the then current Term (or if this Sublease has been terminated, what would have been the remainder of the then current Term but for such termination). For purposes of computing the amount of Rent hereunder that would have accrued after the date of repossession by Sublandlord, Additional Rent shall be calculated based on the average rate of increase, if any, in Additional Rent from the Commencement Date through the date of repossession. Subtenant shall immediately pay to Sublandlord all such Rent if the conditions to such payment as set forth above have been satisfied.
  - (B) (i) If Sublandlord is not entitled to recover all unpaid Rent in one lump sum payment pursuant to clause (A) above, Sublandlord shall have the right, from time to time, to recover from Subtenant, and Subtenant shall remain liable for, all Rent and any other sums accruing as they become due under this Sublease through the remainder of the stated Term and the other provisions of this subsection (2)(B) shall be applicable.
  - (ii) Sublandlord shall make commercially reasonable efforts to relet the Premises or portions thereof, so as to mitigate Sublandlord's damages. Sublandlord and Subtenant agree that Sublandlord may relet for such term or terms and on such conditions and other terms as Sublandlord, in its discretion determines; and that Sublandlord shall not be required to (A) observe any instructions given by Subtenant about such reletting; (B) lease the Premises prior to other space owned, controlled or managed by Sublandlord or its Affiliates; or (C) lease the Premises at below market rates.

(iii) Any rent received by Sublandlord from re-letting the Premises shall be deemed to reduce Subtenant's indebtedness to Sublandlord as follows: (w) first, to reduce Subtenant's obligation to reimburse Sublandlord for Repossession Expenses, then (x) to reduce Subtenant's obligation to reimburse Sublandlord for Reletting Expenses, then (y) to reduce Subtenant's obligation to Sublandlord for Enforcement Costs, then (z) to reduce Subtenant's obligation for the payment of Rent reserved in the Sublease for the remainder of the stated Term of the Sublease. In no event shall Subtenant be entitled to a reduction (of its indebtedness to Sublandlord) in an amount in excess of the aggregate sum of Rent which would have been payable by Subtenant for the remainder of the stated Term of the Sublease, if no Default had occurred.

(iv) As it becomes due, and without notice or demand, Subtenant shall pay to Sublandlord an amount equal to the Rent which would have been payable by Subtenant for the remainder of the stated Term of the Sublease, less any applicable reductions pursuant to the immediately preceding sentence.

(3) Subtenant shall, upon demand, reimburse Sublandlord, with interest at the Default Rate from the date incurred through the date of payment to Sublandlord, the following: Repossession Expenses, Reletting Expenses (if subsection (2)(B) above is applicable) and Enforcement Costs.

(b) If any law shall validly limit the amount of any damages provided for herein to an amount which is less than the amount agreed to herein, Sublandlord shall be entitled to the maximum amount available under such law.

#### **15.4 Definitions.**

(a) "Enforcement Costs" shall be all sums, costs, expenses and damages (in addition to Repossession Expenses, Reletting Expenses, and including reasonable attorneys' fees) which are incurred by Sublandlord in enforcing Subtenant's obligations under this Sublease or by reason of Subtenant's Default, including without limitation, those arising out of any action brought by Sublandlord against Subtenant to interpret any provision of this Sublease or in connection with a bankruptcy or an assignment for the benefit of creditors.

(b) "Reletting Expenses" shall be such costs and expenses which Sublandlord may, to the extent deemed necessary or desirable by Sublandlord, incur to relet the Subleased Premises, including without limitation, (A) repairs, alterations and additions in or to the Subleased Premises, (B) altering locks and security devices to the Subleased Premises, (C) redecoration, remodeling or refurbishing of the Subleased Premises, and (D) other costs and expenses, including brokers' commissions and reasonable attorneys' fees.

(c) "Repossession Expenses" are such costs and expenses including, without limitation, reasonable attorneys' fees which Sublandlord may incur, as Sublandlord considers appropriate, in order to recover possession of the Premises.

(d) Reasonable attorneys' fees shall include the value of services provided by counsel employed by Sublandlord or its Affiliates in the amount that Sublandlord would have reasonably incurred if the services had been performed by unaffiliated counsel.

**15.5 Interest.** If Subtenant at any time fails to make any payment of Rent or of any amounts owed under this Sublease, and as a result Sublandlord is charged interest thereon by Prime Sublandlord pursuant to the Prime Sublease, Subtenant shall pay all such interest directly to Prime Sublandlord.

**15.6 Waivers.** Sublandlord and Subtenant expressly waive any right to trial by jury with respect to any proceeding pertaining to this Sublease. No waiver by Sublandlord of any Default of Subtenant shall be implied to affect, and no express waiver shall affect, any Default other than the Default specified in such waiver and that only for the time and to the extent stated.

**15.7 Force Majeure.** "Force Majeure" means any cause or event beyond the reasonable control of a party to this Sublease, including any act of God, government act or restriction, labor disturbance, general shortage of materials or supplies, riot, insurrection, or act of war or terrorism. Force Majeure excuses a party from performing any non-monetary Sublease obligation for a commercially reasonable time.

**15.8 Sublandlord's Default and Remedies.**

- (a) Sublandlord will be in "Default" of this Sublease if Sublandlord fails to perform any Sublease obligation of Sublandlord and this failure continues for 30 days after Subtenant notifies Sublandlord of such failure, or such longer period of time as is reasonable if more than 30 days is reasonably required to perform this obligation if performance commences within this 30-day period and is diligently prosecuted to completion.
- (b) If Sublandlord is in Default, then Subtenant may exercise any remedy available under law that is not waived or limited under this Sublease, subject to the following:
  - (1) Subtenant may not terminate this Sublease due to any Sublandlord Default.
  - (2) No liability under this Sublease is assumed by Sublandlord's Affiliates.

**16. MISCELLANEOUS**

**16.1 Rules and Regulations.** Subtenant will comply with the Rules and Regulations attached as Exhibit C, as the same may be modified or supplemented from time to time by Prime Sublandlord upon notice to Subtenant. If the Rules and Regulations conflict with this Sublease, the Sublease shall govern.

**16.2 Notice.** Notice to Sublandlord must be given to Sublandlord's Notice Addresses. Notice to Subtenant must be given to Subtenant's Notice Addresses. By notice to the other, either party may change its Notice Address. Each notice must be in writing and will be validly given if either: (a) the notice is personally delivered and receipt is acknowledged in writing; or (b) the notice is delivered by a nationally recognized overnight courier service (e.g., FedEx or Airborne Express) and receipt is acknowledged in writing. If the party to receive notice fails to either accept delivery or acknowledge its receipt in writing, then notice may be validly given by mailing the notice first-class, certified or registered mail, postage prepaid, and the notice will be deemed received by the party 2 business days after the deposit of the notice in the U.S. Mail.

**16.3 Intentionally Omitted.**

**16.4 Building Name.** Subtenant shall not use the Building's name or image for any purpose, other than Subtenant's address, without Prime Sublandlord's approval. Prime Sublandlord may change the name of the Building without any obligation or liability to Subtenant.

**16.5 Entire Agreement.** This Sublease is deemed integrated and contains all of each party's representations, waivers and obligations. The parties may only modify or amend this Sublease in a writing that is fully executed and delivered by each party.

**16.6 Successors.** Unless provided to the contrary elsewhere in this Sublease, this Sublease binds and inures to the benefit of each party's heirs, successors and permitted assignees.

**16.7 No Waiver.** A party's waiver of a breach of this Sublease will not be considered a waiver of any other breach. No custom or practice that develops between the parties will prevent either party from requiring strict performance of the terms of this Sublease. No Sublease provision or act of a party creates any relationship between the parties other than that of sublandlord and subtenant.

**16.8 Independent Covenants.** The covenants of this Sublease are independent. A court's declaration that any part of this Sublease is invalid, void or illegal will not impair or invalidate the remaining parts of this Sublease, which will remain in full force and effect.

**16.9 Captions.** The use of captions, headings, boldface, italics or underlining is for convenience only, and will not affect the interpretation of this Sublease.

**16.10 Authority.**

- (a) Individuals signing this Sublease on behalf of Subtenant represent and warrant that they are authorized to bind Subtenant to this Sublease, and that Subtenant is qualified to do business in the

State of Michigan. If required by Sublandlord, Subtenant will, at Subtenant's cost, provide Sublandlord with a corporate resolution or other documentation acceptable to Sublandlord proving the authority of each individual signatory to bind Subtenant to this Sublease.

- (b) Subtenant represents and warrants to Sublandlord that Subtenant is not named on the list of Specially Designated Nationals and Blocked Persons maintained by the Office of Foreign Assets Control of the United States Department of the Treasury or any such similar list maintained by the state or federal government.
- (c) Subtenant represents and warrants to Sublandlord that any individual or entity involved in this Sublease transaction on behalf of Subtenant is not named on the list of Specially Designated Nationals and Blocked Persons maintained by the Office of Foreign Assets Control of the United States Department of the Treasury or any such similar list maintained by the state or federal government.

**16.11 Applicable Law.** The laws of Michigan govern this Sublease. In any action brought under this Sublease, Subtenant submits to the jurisdiction of the courts of the State of Michigan, and to venue in the County of Wayne.

**16.12 Confidentiality.** Subtenant will not record this Sublease or a memorandum of this Sublease without Sublandlord's written consent. Subtenant will keep the terms of this Sublease confidential and, unless required by law, may not disclose the terms of this Sublease to anyone other than Subtenant's Affiliates to the extent necessary to Subtenant's business.

**16.13 Reasonableness.** Subtenant's sole remedy for any claim against Sublandlord that Sublandlord has unreasonably withheld or unreasonably delayed any consent or approval shall be an action for injunctive or declaratory relief, it being acknowledged and agreed that no such claim may be asserted against Sublandlord except where Sublandlord has expressly agreed in this Sublease that it may not unreasonably withhold or delay its consent or approval.

**16.14 Time.** Time is of the essence as to all provisions in this Sublease in which time is a factor.

**16.15 Quiet Enjoyment.** So long as Subtenant is not in default of this Sublease and except as provided in the Sublease, Sublandlord will not interfere with Subtenant's peaceful and quiet enjoyment of the Premises for the Term. Sublandlord is not liable for, and Subtenant will not be released from any obligation under this Sublease because of any interference with Subtenant's peaceful and quiet enjoyment of the Premises that is caused by any other person, including other subtenants.

**16.16 Right to Enter Premises.** Sublandlord may enter the Premises at any reasonable time to inspect the Premises, to show the Premises to prospective lenders, purchasers, assignees or subtenants, or to perform Sublandlord's duties under this Sublease. If any Leasehold Improvements are damaged by Sublandlord as a result of Sublandlord exercising its rights under this §16.16, then Sublandlord will repair or replace the damaged portion, only, to match the original as nearly as is commercially reasonable.

**16.17 Financial Statements.** Subtenant hereby agrees to provide Sublandlord:

- (a) with its board adopted budget prior to the commencement of the Subtenant's fiscal year, which shall not be a deficit budget;
- (b) with any board adopted amendments to the budget promptly after adoption, which amended budget, shall not be a deficit budget;
- (c) with monthly financial statements, in a timely fashion; and
- (d) with annual audited financial statements prepared in accordance with Generally Accepted Accounting Principles (GAAP) within one hundred twenty (120) days after the end of the Subtenant's fiscal year.

If the annual audited financial statements reflect a year-end excess of annual expenses over annual revenues (which include capital contributions made by members of Subtenant and charitable contributions made to Subtenant), it shall not constitute a default under this Sublease but Sublandlord may terminate this Sublease unless Subtenant provides Sublandlord with (i) a deficit elimination plan, adopted in accordance with State law, within ninety (90)



days of such audit that shall show a means by which the shortfall shall be corrected, and (ii) a written approval of such plan by the State of Michigan within one hundred twenty (120) days of the date of the audit.

**16.18 Subtenant's Authorizing Body.** Sublandlord and Subtenant understand and agree that Subtenant's authorizing body, GVSU, has not agreed to assume, undertake or in any way guarantee payment of the Subtenant's obligations under this Sublease from any source of revenue available to GVSU, including the administrative fee deducted by GVSU from the state school aid payments received by GVSU for the Subtenant, nor has it agreed to assume, undertake or in any way guarantee performance or Subtenant's non-monetary obligations under this Sublease.

**16.19 Exhibits.** The exhibits attached to this Sublease are incorporated herein. If any exhibit is inconsistent with the terms of this Sublease, the provisions of the Exhibit will govern. The Exhibits to this Sublease are:

EXHIBIT A	Location of Premises
EXHIBIT B	Legal Description of Project
EXHIBIT C	Rules and Regulations
EXHIBIT D	Intentionally Deleted
EXHIBIT E	Notice of Sublease Term
EXHIBIT F	Work Letter
EXHIBIT G	Prime Sublease

## **17. RENEWAL OPTION**

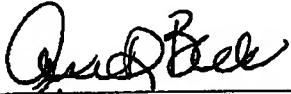
Subtenant shall have eighteen (18) options to renew this Sublease (each a "Renewal Option") for eighteen (18) additional terms of five (5) years each (each a "Renewal Term") upon the same terms, covenants and conditions as are contained in this Sublease except that no Base Rent shall be payable for any Renewal Term. Subtenant must exercise a Renewal Option by giving written notice thereof to Sublandlord at least twelve (12) months prior to the expiration of the Term, as the same may have been renewed (the "Notice"). The Notice shall be effective only if (a) on the date the Notice is given no Default exists and (b) Sublandlord exercises or has exercised its option to renew the Prime Sublease for an additional term of ninety (90) years pursuant to the terms of the Prime Sublease.

**[SIGNATURE PAGE FOLLOWS]**

Having read and intending to be bound by the terms and provisions thereof, Sublandlord and Subtenant have executed this Sublease as of the Execution Date.

**SUBTENANT:**

**CREATIVE URBAN EDUCATION,  
INC., A MICHIGAN NON-PROFIT  
CORPORATION**

By:   
Name: Anne D. Beck  
Title: Treasurer

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**SUBLANDLORD:**

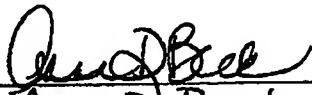
**TEF-SIX, LLC, A MICHIGAN LIMITED  
LIABILITY COMPANY**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

College for Creative Studies executes this Sublease solely for the purpose of agreeing to be bound by the provisions of Section 3.4 of this Sublease.

**COLLEGE FOR CREATIVE STUDIES,  
A MICHIGAN NON-PROFIT CORPORATION**

By:   
Name: Anne D. Beck  
Title: Vice President for  
Administration & Finance

[Sublease - Signature page]

Having read and intending to be bound by the terms and provisions thereof, Sublandlord and Subtenant have executed this Sublease as of the Execution Date.

**SUBTENANT:**

**CREATIVE URBAN EDUCATION,  
INC., A MICHIGAN NON-PROFIT  
CORPORATION**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**SUBLANDLORD:**

**TEF-SIX, LLC, A MICHIGAN LIMITED  
LIABILITY COMPANY**

By: \_\_\_\_\_  
Name: Robert M Thompson  
Title: Manager

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

College for Creative Studies executes this Sublease solely for the purpose of agreeing to be bound by the provisions of Section 3.4 of this Sublease.

**COLLEGE FOR CREATIVE STUDIES,  
A MICHIGAN NON-PROFIT CORPORATION**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A – LOCATION OF PREMISES**

**Argonaut Building/Detroit, MI**

**Suite #101, 102, 201, 301 and 401**

## **EXHIBIT B - LEGAL DESCRIPTION OF PROJECT**

### **Argonaut Building/Detroit, MI**

#### **Argonaut Parcel**

Land situated in the City of Detroit, County of Wayne, State of Michigan described as follows:

Lots 27 through 60 inclusive, including the vacated alley (16 feet wide) lying adjacent to said lots of "Leavitt's Subdivision of that part of fractional Section 31, Town 1 South, Range 12 East, bounded by Milwaukee and Woodward Avenues, Grand Trunk Railroad and rear line of private claims and west line of said fractional Section 31 also Lots 8 to 17 both inclusive, part of Block 5 of Henry Weber's Subdivision of part of fractional Section 31 and 36 Town 1 South, Range 11 and 12 East and part of the Baker and Forsyth Farms" City of Detroit, Wayne County, Michigan as recorded in Liber 9 of Plats on Page 17, Wayne County Records and being more particularly described as follows: Beginning at the Southwesterly corner of Milwaukee Avenue (60 feet wide) and Cass Avenue (80 feet wide), said point being also the Northeasterly corner of Lot 27 of said "Leavitt's Subdivision" (Liber 9, Plats, Page 17, Wayne County Records); proceeding thence from said point of beginning South 26 degrees 18 minutes 49 seconds East, along the Westerly line of said Cass Avenue, said line being also the Easterly line of Lot 27, the Easterly end of a vacated alley (16 feet wide) and the Easterly line of Lot 60 of said "Leavitt's Subdivision", a measured distance of 231.07 feet (recorded 231.00 feet) to the Northwesterly corner of Baltimore Avenue (60 feet wide) and said Cass Avenue, said point being also the Southeasterly corner of said Lot 60; thence South 63 degrees 11 minutes 25 seconds West, along the Northerly line of said Baltimore Avenue, said line being also the Southerly line of Lots 60 through 44 inclusive of said subdivision, a measured distance of 522.05 feet (recorded 521.66 feet) to the Northeasterly corner of Second Avenue (80 feet wide) and said Baltimore Avenue, said point being also Southwesterly corner of said Lot 44; thence North 26 degrees 18 minutes 05 seconds West, along the Easterly line of said Second Avenue, said line being also the Westerly line of Lot 44, the Westerly end of said vacated alley and the Westerly line of Lot 43 of said subdivision, a measured distance of 231.07 feet (recorded 231.00 feet) to the Southeasterly corner of said Milwaukee and Second Avenue, said point being also the Northwesterly corner of said Lot 43; thence North 63 degrees 11 minutes 25 seconds East, along the Southerly line of said Milwaukee Avenue, said line being also the Northerly line of Lots 43 through 27 inclusive, a measured distance of 522.00 feet (described 521.66 feet) to the point of beginning.

#### **Second and Baltimore Parcel**

Land situated in the City of Detroit, County of Wayne, State of Michigan, described as follows:

Lots 116 and 117 of "Leavitt's Subdivision of that part of fractional Section 31, Town 1 South, Range 12 East", City of Detroit, Wayne County, Michigan as recorded in Liber 9 of Plats on Page 17, Wayne County Records and being more particularly described as follows: Beginning at the Southeasterly corner of Lot 117 of said "Leavitt's Subdivision" (Liber 9, Plats, Page 17, Wayne County Records), said point being also the Northwesterly corner of Baltimore Avenue (60 feet wide) and Second Avenue (80 feet wide); proceeding thence from said point of beginning South 63 degrees 11 minutes 00 seconds West, along the Northerly line of said Baltimore Avenue, said line being also the Southerly line of Lots 117 and 116 of said subdivision, a measured distance of 72.31 feet (recorded 72.15 feet) to the Southwesterly corner of said Lot 116; thence North 26 degrees 13 minutes 50 seconds West, along the Westerly line of said Lot 116, a distance of 107.50 feet to the Northwesterly corner of said lot; thence North 63 degrees 11 minutes 00 seconds East, along the Southerly line of a public alley (16 feet wide), said line being also the Northerly line of Lots 116 and 117 of said subdivision, a measured distance of 72.21 feet (recorded 72.15 feet) to the Northeasterly corner of said Lot 117; thence South 26 degrees 16 minutes 46 seconds East, along the Westerly line of said Second Avenue, said line being also the Easterly line of said Lot 117, a distance of 107.50 feet to the point of beginning.

## **EXHIBIT C – RULES & REGULATIONS**

### **Argonaut Building/Detroit, MI**

**“Rules and Regulations” mean the contents of this Exhibit C, as modified, amended or revoked by Sublandlord, from time to time.**

1. **Right to Exclude.** Prime Sublandlord may require that Subtenant, its Affiliates and guests comply with each reasonable security measure that Prime Sublandlord may establish as a condition for entry to the Premises, Building or Project. These measures may include submitting to a search by persons or devices employed by Prime Sublandlord, presenting an identification card or pass issued by the government, Prime Sublandlord, or both, being announced to Subtenant and accepted as a visitor by Subtenant, and signing a register on entry and exit. Any person who cannot comply with these requirements may be excluded from the Project. If Prime Sublandlord requires a Building pass issued by Prime Sublandlord as a condition of entry to the Premises, Building or Project, Prime Sublandlord will furnish a Building pass to all persons reasonably designated by Subtenant in writing. Prime Sublandlord may exclude or expel from the Project any person who, in Prime Sublandlord's reasonable opinion, is intoxicated or under the influence of alcohol or drugs. Prime Sublandlord may require Subtenant and its Affiliates and guests to enter and exit the Building from those entrances designated by Prime Sublandlord from time to time.

2. **Obstructions.** Subtenant will not cause the Common Areas, or sidewalks or driveways outside the Building to be obstructed. Prime Sublandlord may remove, at Subtenant's expense, any such obstruction without prior notice to Subtenant.

3. **Trash.** Subtenant will place trash in proper receptacles in the Premises provided by Subtenant at Subtenant's cost, or in Building receptacles designated by Sublandlord. Subtenant may not litter in the Common Areas, or sidewalks or driveways outside the Building.

4. **Public Safety.** Subtenant will not throw anything out of doors, windows or skylights, down passageways or over walls. Subtenant will not use any fire exits or stairways in the Building except in case of emergency.

5. **Keys and Locks.** Prime Sublandlord may from time to time install and change locks on entrances to the Project, Building, Common Areas or Premises, and will provide Subtenant a number of keys to meet Subtenant's reasonable requirements. Additional keys will be furnished by Prime Sublandlord at Subtenant's cost. At the end of the Term, Subtenant will promptly return to Prime Sublandlord all keys for the Building and Premises issued by Prime Sublandlord to Subtenant. Unless Subtenant obtains Prime Sublandlord's prior written consent, Subtenant will not add or change any locks on any door to, in or about the Premises. If with Prime Sublandlord's consent, Subtenant installs any lock incompatible with the Building master locking system, Subtenant will: relieve (and Sublandlord will relieve) Prime Sublandlord of each Prime Sublease obligation that requires access to each affected area; indemnify Prime Sublandlord against any Claims resulting from forced entry to each affected area in an emergency; and, at the end of the Term, remove each incompatible lock and replace it with a Building Standard lock at Subtenant's expense.

6. **Aesthetics.** Unless Subtenant obtains Prime Sublandlord's prior written consent (which may be withheld in Prime Sublandlord's sole and absolute discretion), Subtenant may not:

- (a) Attach any awnings, signs, displays or projections to either the outside walls or windows of the Building, or to any part of the Premises visible from outside the Premises;
- (b) Hang any non-Building Standard curtains, blinds, shades or screens in any window or door of the Premises;
- (c) Coat or sunscreen the interior or exterior of any windows; or
- (d) Place any objects on windowsills.

7. **Directories and Signs.** Subtenant will be identified in the Building's directory in the main lobby. Each suite constituting part of the Premises will be identified by 1 Building Standard sign consisting of Subtenant's name or the school operated from the Premises and suite number, located at the entrance to each suite. The initial lobby directory listing and Premises signs will be at Subtenant's cost and expense, and any changes to the listing or sign will be made at Subtenant's cost and expense.

8. **HVAC Operation.** Subtenant will not obstruct the HVAC convectors or diffusers, or adjust or interfere with the HVAC system. Subtenant will assist the HVAC system in maintaining comfort in the Premises by drawing shades, blinds and other window coverings in the Premises as may be reasonably required. Subtenant may not use any method of heating or cooling the Premises other than that supplied by Prime Sublandlord.

9. **Plumbing.** Subtenant will use plumbing fixtures only for the purpose for which they are constructed. Subtenant will reimburse Prime Sublandlord for any damage caused by Subtenant's misuse of plumbing fixtures.

10. **Equipment Location.** Prime Sublandlord may specify the location of any of Subtenant's business machines, mechanical equipment or other property that are unusually heavy, may damage the Building, or may cause vibration, noise or annoyance to other subtenants. Subtenant will reimburse Prime Sublandlord for any professional engineering certification or assistance reasonably required to determine the location of these items.

11. **Bicycles.** Subtenant may not bring bicycles or other vehicles into the Building or Premises except, to the extent permitted by the Sublease, for the parking of Vehicles in the parking spaces located within the basement of the Building. Bicycles and other vehicles may only be parked in areas designated by Prime Sublandlord.

12. **Animals.** Subtenant may not bring any birds or animals, excepting seeing-eye/assistance dogs, into the Building or Premises.

13. **Carpet Protection.** To protect carpeting in the Premises, Subtenant will, at its own expense, install and maintain pads to protect the carpet under all furniture having castors other than carpet castors.

14. **Elevators.** Any use of the elevators for purposes other than normal passenger use (such as moving to or from the Building or delivering freight), whether during or after business hours, must be scheduled through the office of the Property Manager or if there is no Property Manager, through the Prime Sublandlord. Subtenant will reimburse Prime Sublandlord for any extra costs incurred by Prime Sublandlord in connection with any such non-passenger use of the elevators.

15. **Moving and Deliveries.** Subtenant's movers are subject to Prime Sublandlord's reasonable approval. Moving of Subtenant's Personal Property and deliveries of materials and supplies to the Premises must be made during the times and through the entrances, elevators and corridors reasonably designated by Prime Sublandlord. Moving and deliveries may not be made through any of the main entrances to the Building without Prime Sublandlord's prior permission. Any hand truck or other conveyance used in the Common Areas must be equipped with rubber tires and rubber side guards to prevent damage to the Building and its property. Subtenant will promptly reimburse Prime Sublandlord for the cost of repairing any damage to the Building or its property caused by any person making deliveries to the Premises.

16. **Solicitation.** Canvassing, soliciting and peddling in the Project are prohibited and Subtenant will cooperate in preventing the same.

17. **Food.** Only persons approved from time to time by Prime Sublandlord may prepare, solicit orders for, sell, serve or distribute food in or around the Project. Except as may be specified in the Sublease or on construction drawings for the Premises approved by Prime Sublandlord, and except for microwave cooking, Subtenant will not use the Premises for preparing or dispensing food, or soliciting of orders for sale, serving or distribution of food.

18. **Work Orders.** Only authorized representatives of Subtenant may request services or work on behalf of Subtenant. Subtenant may not request that Building employees perform any work outside of their duties assigned by Prime Sublandlord.

19. **Smoking.** Neither Subtenant nor its Affiliates shall smoke or permit smoking in any part of the Premises or Building. In addition, neither Subtenant nor its Affiliates shall smoke or permit smoking in any part of the Project located outside of the Building in which Prime Sublandlord, in Prime Sublandlord's sole discretion, prohibits smoking or in which smoking is prohibited by law. Sublandlord may designate the entire Project a no-smoking area.

20. **Space Heaters.** No space heaters or similar devices may be used within the Premises without Prime Sublandlord's consent.

21. **Rules Applied.** These Rules and Regulations apply equally to Subtenant's Affiliates and others permitted by Subtenant to access, use or occupy the Premises.

**EXHIBIT D – INTENTIONALLY DELETED**



**EXHIBIT E – NOTICE OF SUBLEASE TERM**  
**Argonaut Building/Detroit, MI**

This NOTICE OF SUBLEASE TERM, NLT, is given by Creative Urban Education, Inc., Subtenant, to TEF Six, LLC, Sublandlord, with respect to that certain Sublease dated \_\_\_\_\_, Sublease, under which Subtenant has subleased from Sublandlord certain Premises known as Suites 101, 102, 201, 301 and 401, Premises, located at the Argonaut Building.

In consideration of the mutual covenants and agreements stated in the Sublease, and intending that this Agreement may be relied upon by Sublandlord and any prospective purchaser or present or prospective Encumbrance holder, Subtenant certifies and confirms the following:

- (a) The Commencement Date is \_\_\_\_\_, 20\_\_
- (b) The Expiration Date is \_\_\_\_\_, 20\_\_.

Except for those terms expressly defined in this NLT, all initially capitalized terms will have the meanings stated for such terms in the Sublease.

EXECUTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 200\_.

**{SUBTENANT}**

By: \_\_\_\_\_  
Print: \_\_\_\_\_  
Title: \_\_\_\_\_

**{SUBLANDLORD}**

By: \_\_\_\_\_  
Print: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT F – WORK LETTER**  
**(TURNKEY-PRIME SUBLANDLORD PREPARES CONSTRUCTION DOCUMENTS)**

**Argonaut Building/Detroit, MI**  
**Suite #101, 102, 201, 301 and 401**

1. **Conflicts; Terms.** If there is any conflict or inconsistency between the provisions of the Sublease and those of this Exhibit F ("Work Letter"), the provisions of this Work Letter will control. Except for those terms expressly defined in this Work Letter, all initially capitalized terms will have the meanings stated for such terms in the Sublease. The following terms, which are not defined in the Sublease, have the meanings indicated:

(a) "Sublandlord's Representative" means John Cleary, or such other person as may be designated by Sublandlord from time to time.

(b) "Subtenant's Representative" means Adriana Calderon, or such other person as may be designated by Subtenant from time to time.

(c) "Tenant Improvements" means all alterations, improvements and installations to be constructed or installed by Prime Sublandlord according to the Work Letter attached to the Prime Sublease (the "Prime Sublease Work Letter"). In no event will the Tenant Improvements include any furniture, fixtures or equipment (including telecommunications and security system cabling and equipment) except for any equipment expressly provided for in the Construction Documents approved by Prime Sublandlord, as the same may be revised from time to time with the approval of Sublandlord.

(d) "Preliminary Plans" means those preliminary plans and specifications for the Tenant Improvements dated April 18, 2008, prepared by Albert Kahn Associates, Inc. and identified in Schedule 1 attached hereto. Prime Sublandlord, Sublandlord and Subtenant have reviewed and approved the Preliminary Plans.

(e) "Construction Documents" means complete construction plans and specifications for the Tenant Improvements.

2. **Sublandlord's Obligations.** Sublandlord will tender possession of the Premises to Subtenant when Prime Sublandlord has tendered possession of the Premises to Sublandlord and the Tenant Improvements have been completed by Prime Sublandlord to the extent that only minor construction details, which would not materially interfere with Subtenant's use and enjoyment of the Premises, require completion or correction ("Substantially Completed or Substantial Completion"). Subtenant will accept the Premises when Sublandlord tenders possession, provided that the Tenant Improvements have been Substantially Completed, and provided further that Subtenant will not be required to accept possession prior to the Scheduled Commencement Date. Sublandlord and Subtenant agree that all Tenant Improvements, whether paid for by Prime Sublandlord, Sublandlord or Subtenant, will, without compensation to Subtenant, become Prime Sublandlord's property upon installation and will remain Prime Sublandlord's property at the expiration or earlier termination of the Term.

3. **Punch List.** Subtenant's taking possession of any portion of the Premises will be conclusive evidence that such portion of the Premises was in good order and satisfactory condition when Subtenant took possession, except as to any patent defects identified on a punch list prepared and signed by Prime Sublandlord's Representative, Sublandlord's Representative and Subtenant's Representative after an inspection of the Premises by such parties when Subtenant takes possession, and except as to any latent defects of which Subtenant notifies Prime Sublandlord in writing within one year after the Commencement Date. Failure to advise Prime Sublandlord in writing within one year of the Commencement Date of any latent defects shall result in a waiver of any claims regarding said defects by Subtenant. Sublandlord will not be responsible for any items of damage caused by Subtenant, its agents, independent contractors or suppliers. No promises to alter, remodel or improve the Premises

or Building and no representations concerning the condition of the Premises or Building have been made by Sublandlord to Subtenant other than as may be expressly stated in the Sublease (including this Work Letter).

4. **Representatives.** Sublandlord appoints Sublandlord's Representative to act for Sublandlord in all matters covered by this Work Letter. Subtenant appoints Subtenant's Representative to act for Subtenant in all matters covered by this Work Letter. All inquiries, requests, instructions, authorizations and other communications with respect to the matters covered by this Work Letter will be made to Sublandlord's Representative or Subtenant's Representative, as the case may be. Subtenant will not make any inquiries of or request to, and will not give any instructions or authorizations to, any other employee or agent of Sublandlord, including Sublandlord's architect, engineers and contractors or any of their agents or employees, with regard to matters covered by this Work Letter. Either party may change its Representative under this Work Letter at any time by prior written notice to the other party.

5. **Construction Documents; Construction of Tenant Improvements.** Prime Sublandlord will cause its architect to prepare the Construction Documents based strictly on the Preliminary Plans unless otherwise agreed to by Sublandlord and Subtenant. Subtenant will be given an opportunity to review the Construction Documents to confirm that they conform to the Preliminary Plans. While Sublandlord has no obligation to construct or install the Tenant Improvements, Sublandlord shall, upon Subtenant's request and at Subtenant's expense, use reasonable efforts to cause the Prime Sublandlord to construct and install the Tenant Improvements in accordance with the Prime Sublease Work Letter. If Sublandlord requests any changes to the Construction Documents (other than changes required to make the same conform to the Preliminary Plans), and if such changes result in an increase in the cost of constructing or installing the Tenant Improvements, then Sublandlord will pay Prime Sublandlord for such increase; provided, however, that Sublandlord may not request any changes to the Construction Documents (other than changes required to make the same conform to the Preliminary Plans) without Subtenant's approval.

6. **Change Orders.** Sublandlord's Representative may authorize changes in the work (including work in addition to the Tenant Improvements) during construction only by written instructions to Prime Sublandlord's Representative on a form approved by Prime Sublandlord and with the consent of Subtenant. All such changes will be subject to Prime Sublandlord's prior written approval according to Paragraph 7 below. Any Change Order issued in connection with any such change pursuant to the Prime Sublease Work Letter shall be subject to the approval of Subtenant. Sublandlord will pay the total cost of any Change Orders approved by Prime Sublandlord and Subtenant within 10 days of Prime Sublandlord's approval of same unless Sublandlord and Subtenant have agreed in writing that the cost of any such Change Order shall be paid by Subtenant.

7. **Sublandlord's Approval.** All Construction Documents and Change Orders, and any drawings, plans and specifications for any changes or additions reflected in Change Orders or any other improvements or installations in the Premises, are expressly subject to Prime Sublandlord's prior written approval, which approval may be withheld for the reasons set forth in the Prime Sublease Work Letter.

8. **Subtenant's Delays.** As provided in Section 3.1 of the Sublease, the Term of the Sublease (and therefore Subtenant's obligation for the payment of Rent) will not commence until Prime Sublandlord has Substantially Completed the Tenant Improvements; provided, however, that if Prime Sublandlord is delayed in Substantially Completing the Tenant Improvements for any of the reasons enumerated in Section 8 of the Prime Sublease Work Letter, then the Commencement Date will only be extended under Section 3.1 of the Sublease until the date on which Prime Sublandlord would have Substantially Completed the Tenant Improvements.

9. **General.** No approval by Prime Sublandlord or Sublandlord or Prime Sublandlord's architect or engineer of any drawings, plans or specifications which are prepared in connection with construction of improvements in the Premises will constitute a representation or warranty by Prime Sublandlord or Sublandlord as to the adequacy or sufficiency of such drawings, plans or specifications, or the improvements to which they relate, for any use, purpose or condition, but such approval will merely be the consent of Prime Sublandlord or Sublandlord to the construction or installation of improvements in the Premises according to such drawings, plans or specifications. Failure by Subtenant to pay any amounts payable by Sublandlord under this Work Letter will have the same effect as failure to pay Rent under the Sublease, and such failure or Subtenant's failure to perform any of its other obligations under this Work Letter will constitute a Default under Section 15.1(a) of the Sublease, entitling Sublandlord to all of its remedies under the Sublease as well as all remedies otherwise available to Sublandlord.

**SCHEDULE 1**  
**Argonaut Building/Detroit, MI**

1. First Floor Plan (Job No. 01422-P) Sheet No. A-201
2. Second Floor Plan (Job No. 01422-P) Sheet No. A-202
3. Third Floor Plan (Job No. 01422-P) Sheet No. A-203
4. Fourth Floor Plan (Job No. 01422-P) Sheet No. A-204

**EXHIBIT G – PRIME SUBLEASE**

**Argonaut Building/Detroit, MI**



**AMENDED AND RESTATED  
MASTER LEASE**

**by and between**

**ARGONAUT CAMPUS DEVELOPER LLC**

**and**

**ARGONAUT BUILDING MASTER TENANT LLC**

**Date: September 30, 2008**

## AMENDED AND RESTATED MASTER LEASE

THIS AMENDED AND RESTATED MASTER LEASE (this "Lease") is effective as of this 30<sup>th</sup> day of September, 2008 (the "Effective Date") by and between ARGONAUT CAMPUS DEVELOPER LLC, a Michigan limited liability company (hereinafter referred to as "Landlord"), and ARGONAUT BUILDING MASTER TENANT LLC, a Michigan limited liability company (hereinafter referred to as "Tenant"), and amends and restates in its entirety that certain Master Lease dated July 24, 2008 executed by Landlord and Tenant (the "Original Lease").

### RECITALS:

A. Landlord owns a fee interest in the Building and the Land (as such terms are hereinafter defined). The Land and the Building and all other improvements now or hereafter located on the Land are sometimes collectively referred to herein as the "Premises".

B. Landlord intends to rehabilitate the Building in a manner that qualifies for the historic rehabilitation tax credit allowed for qualified rehabilitation expenditures incurred in connection with the "certified rehabilitation" of a "certified historic structure" (the "Historic Tax Credit") pursuant to Section 47 of the Internal Revenue Code of 1986, as amended (the "Code").

C. Tenant desires to lease the Premises, including the rehabilitated Building, from Landlord pursuant to the terms of this Lease, and to hold, maintain, operate, and sell or otherwise dispose of its interest in the Premises hereunder.

D. Landlord has agreed to pass the Historic Tax Credit arising from the rehabilitation of the Building through to Tenant pursuant to the provisions of Section 50(d) of the Code.

E. The Premises will be subject to various financing arrangements with one or more mortgage lenders secured by encumbrances upon the Premises (the "Financing Documents"). Tenant has previously entered into a sublease of portions of the Premises with the College for Creative Studies ("CCS") (the "CCS Sublease") on July 24, 2008. Tenant has simultaneously entered into a sublease of portions of the Premises with TEF-Six, LLC ("TEF") (the "TEF Sublease", and collectively with the CCS Sublease, the "Existing Subleases").

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

### SECTION 1 DEFINITIONS

For purposes of this Lease, Landlord and Tenant hereby agree that the following terms shall have the indicated meanings:



**"Additional Rent"** means all sums of money or charges required to be paid by Tenant under this Lease other than Annual Rent or Auxiliary Rent whether or not such sums or charges are designated "Additional Rent".

**"Adverse Consequences"** means all actions, suits, proceedings, hearings, investigations, charges, complaints, claims, demands, injunctions, judgments, orders, decrees, rulings, damages, dues, penalties, fines, costs, reasonable amounts paid in settlement, liabilities, obligations, taxes, liens, losses, expenses and fees, including court costs and reasonable attorneys' fees and expenses.

**"Annual Rent"** means Base Rent and Supplemental Rent.

**"Auxiliary Rent"** shall have the meaning set forth in **Section 3.G**.

**"Base Rent"** means the rental payment due each year during the Term in accordance with the schedule attached hereto as **Exhibit B**.

**"Base Rent Commencement Date"** means the later of the date (a) when all of the Improvements (excluding Tenant Improvements) contemplated by the initial Plans and Specifications that are to be constructed or made pursuant to those certain Contracts for Construction dated April 4, 2008 and July 24, 2008, respectively, between Landlord and Walbridge Aldinger, as the same may be extended, renewed, modified, amended, supplemented and replaced from time to time (collectively, the "Construction Contract"), have been substantially completed (as defined in the Construction Contract) and (b) the Tenant Improvements under the Sublease for space in the Building contemplated to be entered into with TEF-Six, LLC and the Sublease for space in the Building with CCS have been substantially completed (as defined, respectively, in the Subleases with such Subtenants) and certificates of occupancy have been issued by the City of Detroit with respect to those portions of such spaces as to which Tenant Improvements were made.

**"Building"** means that certain building located on the Land and commonly known as the Argonaut Building, containing approximately 627,396 rentable square feet.

**"Cash Flow"** means, with respect to any Fiscal Year of Tenant, the gross cash receipts of Tenant, reduced by the sum of the following: (a) all principal and interest payments and other sums paid on or with respect to any loans of the Tenant; (b) all cash expenditures incurred incident to the operation of Tenant's business, (including without limitation, any capital expenditure not funded by reserve proceeds); (c) such cash as is necessary to pay all accrued, outstanding trade payables with respect to the Tenant; (d) the amount of the distributions, if any, made by Landlord to Tenant as a result of Tenant's status as a member of Landlord; and (e) the amount of any Credit Adjustment, Special Tax Distribution, and Priority Return (as those terms are defined in the Tenant Operating Agreement) required to be distributed by Tenant to Investor pursuant to the Tenant Operating Agreement.

**"Code"** shall have the meaning set forth in the Recitals.

**“Commencement Date”** means (a) with respect to any portion of the Premises other than portions thereof subleased pursuant to Subleases, the date when all the Improvements (excluding Tenant Improvements) contemplated by the initial Plans and Specifications have been substantially completed (as defined in the Construction Contract) and (b) with respect to any portion of the Premises subleased pursuant to a Sublease, the earlier of (i) the date when all the Improvements (excluding Tenant Improvements) contemplated by the initial Plans and Specifications have been substantially completed (as defined, respectively, in the Subleases with such Subtenants) and the Tenant Improvements to be made pursuant to such Sublease have been substantially completed and (ii) the date the term of such Sublease commences.

**“Credit Commencement Date”** means the date on which the rehabilitation of the Building is substantially completed and the Qualified Rehabilitation Expenditures incurred in connection with the rehabilitation of the Building (not including the Tenant Improvements) are placed in service (i.e., are in a condition or state of readiness and availability for their intended purpose) and otherwise are eligible for the Historic Tax Credits.

**“Depreciation”** means economic depreciation deductions allocable to the rehabilitated Building, as determined for federal income tax purposes pursuant to Section 1.57(b)(4) of the Regulations as in effect at the time such Regulations were promulgated.

**“Election”** shall have the meaning set forth in **Section 21**.

**“Environmental Laws”** means the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., the Comprehensive Environmental Response, Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act, 42 U.S.C. § 9601 et seq., the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., and/or the Michigan Natural Resources and Environmental Protection Act of 1994 (Act 451), Part 201, including the Administrative Rules promulgated thereunder as most recently amended December 21, 2002, each as amended from time to time and any other federal, state, or local statute, code, ordinance, rule, regulation, permit, consent, approval, license, judgment, order, writ, judicial decision, common law rule, decree, agency interpretation, injunction or other authorization or requirement whenever promulgated, issued, or modified, including the requirement to register underground storage tanks, relating to:

(i) emissions, discharges, spills, releases, or threatened release of pollutants, contaminants, Hazardous Substances (as hereinafter defined), materials containing Hazardous Substances, or hazardous or toxic materials or wastes into ambient air, surface water, groundwater, watercourses, publicly or privately owned treatment works, drains, sewer systems, wetlands, septic systems or onto land; or

(ii) the use, treatment, storage, disposal, handling, manufacturing, transportation, or shipment of Hazardous Substances, materials containing Hazardous Substances or hazardous and/or toxic wastes, material, products, or by-products (or of equipment or apparatus containing Hazardous Substances).

**“Event of Default”** shall have the meaning set forth in **Section 13**.

**"Existing Subleases"** shall have the meaning set forth in the Recitals.

**"FF&E"** shall have the meaning set forth in **Section 46**.

**"Financing Documents"** shall have the meaning set forth in the Recitals.

**"Governmental Authorities"** means all public officials, agencies, municipalities, and counties having jurisdiction in respect of the Premises.

**"Historic Preservation Application"** means the Historic Preservation Certification Application submitted to the National Park Service in connection with the rehabilitation of the Building.

**"Impositions"** means all taxes, license, and permit fees, charges for public utilities of any kind supplied by Governmental Authorities, as well as any utilities or utility-like products or services, such as water, gas, garbage removal, sewage, and electricity, supplied by private companies, and obligations for any and all other governmental charges, general and special, ordinary and extraordinary, unforeseen as well as foreseen, of any kind and nature whatsoever, including, but not limited to, assessments for sidewalks, streets, sewers, water, or any public improvements, and any other improvements or benefits which shall, during the Term hereof be made, assessed, levied, or imposed upon, or become due and payable in connection with or a lien upon, the Premises, or any part thereof, or upon this Lease.

**"Improvements"** means all permanent improvements, including the Tenant Improvements, appurtenant parking areas, drive-in lanes, driveways and landscaped areas, to be made on the Premises in accordance with the Plans and Specifications.

**"Investor"** means New Markets Investment 37, LLC, a Delaware limited liability company, its successors and assigns, in its capacity as the investor member of Tenant.

**"Investor Address":**

New Markets Investment 37, LLC  
c/o New Markets Support Company, LLC  
120 South Riverside Plaza, 15th Floor  
Chicago, Illinois 60606  
Attention: Matthew Huber, Vice President  
Telephone: (312) 697-6131  
Facsimile: (312) 441-0554

With copies to:  
New Markets Support Company, LLC  
501 Seventh Avenue, 7th Floor  
New York, New York 10018  
Attention: General Counsel  
Telephone: (212) 455-9867  
Facsimile: (212) 682-5929

And:

Future Unlimited Law PC  
P. O. Box 2776  
Yelm, Washington 98597  
Attention: Ruth Sparrow  
Telephone: (360) 458-1720  
Facsimile: (360) 458-2509

And to:

c/o U.S. Bancorp Community Development Corporation  
1307 Washington Avenue, Suite 300  
St. Louis, MO 63103  
Attention: Steven Otto, Vice President  
Facsimile: (314) 335-2601

With copies to:

Nixon Peabody LLP  
401 Ninth Street, N.W.  
Suite 900  
Washington, D.C. 20004  
Attention: David F. Schon, Esq.  
Facsimile: (866) 947-3496

**"Investor Notice"** shall have the meaning set forth in **Section 16.C**.

**"Land"** means all those tracts or parcels of land leased by Landlord to Tenant, which tracts or parcels of land are described on **Exhibit A** attached hereto and made a part hereof.

**"Landlord's Address"**: Argonaut Campus Developer LLC  
c/o College for Creative Studies  
201 E. Kirby  
Detroit, Michigan 48292-4034  
Attn: Anne Beck, Vice President,  
Administration and Finance  
Facsimile: (313) 871-5530

**"Landlord's Work"** shall have the meaning set forth in **Section 9.A**.

**"Largest Subtenant"** shall have the meaning set forth in **Section 16.A**.

**"Lease Year"** means an annual period (provided that the first Lease Year and last Lease Year may be less than one calendar year in length) with the first Lease Year commencing on the Commencement Date and lasting until December 31<sup>st</sup> of the calendar year in which the Commencement Date occurs. Each Lease Year thereafter shall cover each succeeding calendar year, provided, however, that if the term of this Lease ends on a day other than December 31<sup>st</sup>, the last Lease Year shall cover the partial calendar year prior to the end of the Term.

**"Lender"** means any lender making a Mortgage Loan, and its successors.

**"Loan Documents"** means all documents evidencing or securing any Mortgage Loan or any other indebtedness encumbering the Premises or secured by a pledge or collateral assignment of any interest in Landlord.

**"Monthly Installment of Base Rent"** means one-twelfth (1/12) of the applicable Base Rent.

**"Mortgage"** means a mortgage encumbering the Premises in favor of a Lender.

**"Mortgage Loan"** means a loan made to Landlord in connection with the rehabilitation of the Building or the acquisition, development, ownership, or operation of the Premises (including a refinancing) that is secured by a Mortgage or by a pledge or collateral assignment of any interests in Landlord.

**"Notice of Default"** means a notice served by Landlord upon Tenant and any Lender upon the occurrence of a default by Tenant in accordance with the provisions of Section 13.

**"Notice of Termination"** means a notice that may be served by Landlord upon Tenant upon the occurrence of an Event of Default which provides that the Lease will be terminated effective as of the date set forth in such notice unless such Event of Default is cured prior to such date.

**"Notices"** means all notices, requests, demands, or other communications which may be or are required or permitted to be served or given under this Lease.

**"Plans and Specifications"** means the plans and specifications for the Improvements as approved by the Lenders and by the Investor from time to time.

**"Premises"** shall have the meaning set forth in the Recitals.

**"QRE"** means "qualified rehabilitation expenditures" as such term is defined in Section 47(c)(2) of the Code.

**"Recapture Event"** means any event that results in the recapture of Historic Tax Credits under Section 50 of the Code.

**"Recapture Period"** means the 60-month period commencing on the later of (i) Credit Commencement Date and (ii) the date on which any other QREs incurred in connection with the rehabilitation of the Building are placed in service and used by Tenant.

**"Regulations"** mean the income tax regulations promulgated under the Code, as amended from time to time.

**"Rent"** means all Annual Rent, Additional Rent, Auxiliary Rent and all other charges and costs hereunder payable by Tenant to Landlord under this Lease.

**"Subleases"** means the Existing Subleases, and any other sublease agreements for the Premises, as approved by the Lenders and by the Investor (to the extent such approval is required under the Loan Documents or the Tenant Operating Agreement), in accordance with the terms of this Lease, the Loan Documents, and the Tenant Operating Agreement.

**"Subordination, NonDisturbance and Attornment Agreement" or "SNDA"** shall mean the agreement between Tenant and Lender, substantially in the Lender's customary and commercially usual form for such agreements, providing in essence that (a) the Lender consents to this Lease, (b) this Lease is subordinate to the Mortgages given to Lender and subject to all of the provisions, terms and conditions thereof, (c) in the event that the Lender succeed to Landlord's interest hereunder due to foreclosure of the Mortgage or otherwise, Tenant, as applicable, shall attorn to the Lender, and the Lender, provided that Tenant is not in default hereunder beyond any applicable cure period, shall recognize Tenant's rights under this Lease and shall not disturb Tenant's possession hereunder, and (d) the Lender shall not be responsible for Landlord's obligations under this Lease unless and until the Lender so succeed to Landlord's interest hereunder, and then only with respect to such obligations arising or accruing after such succession.

**"Supplemental Rent"** shall have the meaning set forth in Section 3.B.

**"Taking"** means the acquisition by authority of any Governmental Authority in the legal and valid exercise of its power of eminent domain or by private purchase in lieu thereof.

**"Tenant"** means Argonaut Building Master Tenant LLC, a Michigan limited liability company.

**"Tenant Excluded Business"** shall have the meaning set forth in Section 6.I.

**"Tenant Improvements"** means alterations, additions, renovations or improvements to portions of the building subleased by subtenants or otherwise to the Premises for the exclusive benefit of any subtenants made by Landlord (and funded from capital contributions, proceeds from any Mortgage Loan, condemnation proceeds, through allowances to tenants or other sources) pursuant to the terms of this Lease.

**"Tenant Operating Agreement"** means the Operating Agreement of Tenant, of even date herewith by CCS Argonaut Holdings, as Manager, and Investor, as the Member.

**"Tenant's Address":** CCS Argonaut Holdings, Inc.  
201 E. Kirby  
Detroit, MI 48202  
Facsimile: (313) 871-5530  
Attn: Anne Beck, Vice President,  
Administration and Finance  
Facsimile: (313) 871-5530

With copies to: College for Creative Studies  
201 E. Kirby

Detroit, Michigan 48292-4034  
Attention: Geoff Sleeman  
Facsimile: (313) 871-5530

Clark Hill PLC  
500 Woodward Avenue  
Suite 3500  
Detroit, Michigan 48226  
Attention: Timothy M. Koltun  
Facsimile: (313) 965-8252

**"Term"** means the period commencing on the Commencement Date and ending on the day immediately preceding the 19 year anniversary of the Commencement Date.

When used herein, the singular shall apply to the plural, the plural to the singular, and the use of any gender shall apply to all genders.

## **SECTION 2**

### **DEMISE OF PREMISES**

Landlord leases to Tenant and Tenant leases from Landlord upon the terms, covenants and conditions set forth herein, the Premises together with the Improvements now existing or hereafter constructed for the Term. Tenant hereby accepts the Premises in "AS IS" condition subject to Landlord's obligation to substantially complete the Improvements thereto as required by the Plans and Specifications and the Subleases.

Notwithstanding anything to the contrary contained in this Lease, the effectiveness of this Lease is contingent upon Landlord and CCS having obtained financing for the renovation and improvement of the Premises (including the Tenant Improvements) and certain other adjacent properties to be used for parking on terms and conditions satisfactory to Landlord and CCS in their sole discretion, including but not limited to tax credits, other public incentives, private equity and debt financing. If this contingency is not satisfied by September 1, 2008, as such date may be extended in writing by Landlord and Tenant, either party may terminate this Lease by giving written notice thereof to the other party at any time prior to the satisfaction of both contingencies.

## **SECTION 3**

### **RENT**

A. Monthly Installments of Base Rent shall accrue beginning on the Base Rent Commencement Date and on the first day of each month thereafter through the end of the Term of this Lease. Monthly Installments of Base Rent shall be comprised of equal monthly installments of the Base Rent set forth in **Exhibit B** hereof payable in advance on the Base Rent Commencement Date and on the first day of each month thereafter through the end of the Term. Supplemental Rent shall be paid as set forth in **Section 3.B**. Annual Rent shall be payable without deduction, set-off, recoupment, counterclaim, or demand, at Landlord's Address or at such other place as shall be designated in writing by Landlord. If the Base Rent Commencement

Date is a day other than the first day of a month, the Base Rent for the month in which the Base Rent Commencement Date occurs shall be prorated on a per diem basis. If the Term shall end on a day other than the last day of a month, the Annual Rent for any such partial month of a Term shall be prorated on a per diem basis.

B. As part of the consideration for this Lease and as Annual Rent and subject to all of the provisions hereof, Tenant covenants and agrees to pay to Landlord, annual "Supplemental Rent" as follows:

<u>Lease Year</u>	<u>Amount</u>
2009	\$100,000
2010	\$600,000
2011-2027	\$1,400,000
2028	\$1,000,000

Supplemental Rent for a Lease Year shall be paid in arrears and shall be due and payable on or before April 1st of the immediately succeeding Lease Year provided, however, that notwithstanding the foregoing, Tenant shall defer payment of the portion of the annual Supplemental Rent payment that exceeds Cash Flow for the Lease Year in question (a "Deferred Portion"). In the event that Tenant has deferred payment of any portion of a Supplemental Rent payment under this **Section 3.B**, Tenant shall pay such deferred portion with the next required Supplemental Rent payment (subject to the requirement that Tenant must defer payment of amounts that exceed Cash Flow with respect to the Lease Year to which such next Supplemental Rent Payment pertains as described above).

C. As part of the consideration for this Lease and as "Additional Rent" and subject to all of the provisions hereof, Tenant covenants and agrees, commencing on the Commencement Date and at all times during the Term, at Tenant's own cost and expense, to pay, as the same become due and payable and before any fine, penalty, interest, or other charge which may be added thereto for the non-payment thereof, (i) any premiums for Insurance pursuant to **Section 10**, (ii) any and all operating charges, maintenance charges, rental under equipment or similar leases, and any other charges, costs and expenses which arise or may be contemplated under any provision of the Lease during the Term, and (iii) all Impositions, except that any such amounts properly allocable to periods before or after the Term shall not be payable by Tenant. Landlord agrees to send promptly to the Tenant copies of any notices in respect of any such Imposition. Tenant covenants to furnish to Landlord official receipts of the proper taxing or other Governmental Authorities or other proof satisfactory to Landlord, evidencing the full payment of any and all such Impositions. Landlord shall promptly pay to Tenant each reimbursement payment received by Landlord pursuant to that certain Reimbursement Agreement between Landlord and the City of Detroit Brownfield Redevelopment Authority that are attributable to Impositions applicable to the Term.

D. If any Imposition may be paid, at the option of the taxpayer, in installments (whether or not interest accrues thereon), Tenant may pay the same in installments (with the interest, if any), unless otherwise required by a Lender or the Investor.



E. Notwithstanding anything in this Lease to the contrary, it is expressly understood and agreed that Tenant shall not be required to pay, or reimburse Landlord for, (a) any franchise tax, gross receipts tax, revenue tax, premium tax, income tax or profits tax of Landlord, or any such tax imposed after the date hereof by any federal, state or local governmental authority or jurisdiction if such tax is determined on the basis of the general assets, or the general net income or net revenue of Landlord or (b) any estate, inheritance, devolution, succession, transfer, stamp, legacy or gift tax which may be imposed upon or with respect to any transfer of Landlord's interest in any portion of the Premises.

F. Tenant shall have the right, if Tenant disputes the amount or validity of any Imposition upon the Premises or Improvements thereon (whether in respect of the amount of tax assessment or otherwise) to, at its sole cost and expense, contest and defend against the same, and in good faith diligently to conduct any necessary proceedings to prevent and avoid the same; provided, however, that such contest shall be prosecuted to a final conclusion as speedily as is reasonably possible. Any rebate made on account of any Imposition paid by Tenant shall belong and be paid to Tenant. Landlord agrees to render Tenant all reasonable assistance, at no expense to Landlord, in contesting the validity or amount of any Imposition, including joining in the execution of any reasonable documents, or the signing of any reasonable protests or pleadings, which Tenant may file. During any such contest, Tenant shall (by payment of such disputed Imposition, if necessary) prevent any foreclosure of, or any divesting thereby, of Landlord's title, reversion, or other interest in or to the Premises, and will further (by the payment of such disputed Imposition, if necessary) prevent the public sale or enforcement of any lien for such Imposition. If Tenant does not pay any such disputed Imposition during the pendency of any such contest, and if the failure to pay such Imposition could result in the foreclosure or divestiture of Landlord's interest in and to the Premises, Tenant shall, upon the request of Landlord, deposit cash with Landlord as a reserve in an amount which Landlord determines is sufficient to pay such Imposition plus all fines, interest, penalties and costs which may become due pending the determination of the contest. Upon termination of any contest, Tenant shall pay the amount of the Imposition as finally determined in the contest. Provided that no default then exists, the cash which has been deposited with Landlord pursuant to this Section shall be applied toward such payment and the excess, if any, shall be returned to Tenant.

G. If any rights or obligations of Tenant hereunder (whether relating to payment of Rent, or to any other provision of this Lease) relate to a period in part before the Commencement Date, or in part after the date of termination of the Term, or if the Commencement Date is not the first day of a month, or if this Lease terminates other than on the last day of a month, appropriate adjustments and prorations shall be made. Upon the termination of this Lease for any reason (including condemnation or casualty) on or prior to the end of the Term, or if the use of the Premises is reduced or diminished due to a casualty or condemnation or any other reason prior to the end of the Term, if the aggregate Rent paid or payable by Tenant hereunder for the Term is not sufficient after the application of any insurance or condemnation proceeds to reimburse Landlord for all of its costs and expenses relating to the Premises during the Term (including, without limitation, interest and Depreciation), Tenant shall pay at the end of the Term the amount of any such shortfall to Landlord as additional rent ("Auxiliary Rent").

H. If this Lease is terminated prior to the end of the Term on account of an Event of Default, foreclosure by a Lender, a casualty or condemnation, or for any other reason

whatsoever, whether by Tenant or by Landlord, or if the use of the Premises is reduced or diminished due to a casualty or condemnation or any other reason prior to the end of the Term, Tenant shall, subject to **Section 11.B** hereof, remain liable for all Rent due from Tenant under the Lease for the balance of the Term.

I. All Rent pursuant to this Lease shall be allocated to date on which such amount is payable regardless of when payments are actually made.

#### **SECTION 4 LATE PAYMENTS**

In the event that any payment of Annual Rent, Additional Rent or Auxiliary Rent shall be past due for more than five (5) days and such failure continues for five (5) days after notice to Tenant, Tenant shall pay to Landlord as Additional Rent a late charge equal to four percent (4 %) of the amount of such delinquent payment. In addition, if any Rent is not paid when due, Tenant shall pay to Landlord as Additional Rent interest on the unpaid Rent from the date when due until payment is received by Landlord at the default rate of interest provided for in the Mortgage which has a first lien priority or if no Mortgage then exists, at the rate of two percent (2%) per annum above the prime rate of interest as announced from time to time by JPMorgan Chase & Co. (or its successor in the event it ceases to exist) or, if less, the highest rate permitted by law. The late charge imposed under this Section is not a penalty and has been agreed to by Landlord and Tenant as necessary to compensate Landlord for its additional costs associated with late payment.

#### **SECTION 5 NET LEASE**

A. This Lease is what is commonly called a "net lease," it being understood that Landlord shall receive the Rent free and clear of any and all Impositions, taxes, assessments, liens, charges or expenses of any nature whatsoever in connection with the ownership, maintenance, repair and operation of the Premises. Tenant shall be solely responsible for and shall pay all Impositions, insurance premiums pursuant to **Section 10**, operating charges, maintenance charges, rental under equipment or similar leases, and any other charges, costs and expenses which arise or may be contemplated under any provision of the Lease during the Term.

B. It is the intent of the Landlord and Tenant that this Lease qualify as a "net lease" pursuant to Code Section 48(d)(4)(D) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) and Code Section 57(c)(1)(B) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) and the provisions of this Lease shall be interpreted, construed, and applied in a manner consistent with such intent. The parties hereto agree to make such changes from time to time as are necessary to cause this Lease to qualify as a "net lease," effective as of the Effective Date hereof.

#### **SECTION 6 USE OF PREMISES**

A. Tenant shall have the right to use the Premises for the operation of a middle school and high school, college and graduate programs, student housing and housing for participants in youth or pre-college programs, office uses (including a call center), retail uses and related accessory uses. Tenant agrees not to commit waste on the Premises and not to use the Premises for any unlawful purpose, or in violation of any certificate of occupancy, or for any purpose that may constitute a nuisance, public or private, nor suffer any dangerous article to be brought on the Premises unless safeguarded as required by law. Tenant agrees to reasonably, promptly, and effectively comply with all applicable statutes, regulations, rules, ordinances, orders, and requirements of all Governmental Authorities including, but not limited to, (i) all Environmental Laws and all applicable laws, statutes, rules or regulations, ordinances, decrees or orders concerning access of handicapped or disabled persons, whether now existing or hereafter enacted or promulgated, including without limitation the Americans with Disabilities Act of 1990 (collectively {"Handicapped Access Laws"}). Tenant shall also have the right to use the Premises for any of the following commercial uses: those commercial uses specified in Subcategories II, III and IV as defined in the Natural Resources Environmental Protection Act of 1994 (Act 451), Part 201 Administrative Rules, as most recently amended December 20, 2002. Landlord agrees to give notice promptly to Tenant of any written notice from any Governmental Authorities in respect of the Premises including, without limitation, any notice pertaining to air and water quality, Environmental Laws, waste disposal, air emissions, and other environmental matters, and any direction of any public agency that imposes any duty upon Landlord or Tenant with respect to the use or occupancy of the Premises. Tenant may, in good faith, dispute the validity of any complaint or action taken pursuant to or under color of any of the foregoing, defend against the same, and, in good faith, diligently conduct any necessary proceedings to prevent and avoid any adverse consequence of the same. Tenant agrees that any such contest shall be prosecuted to a final conclusion as speedily as possible, and Tenant will save Landlord harmless with respect to any actions taken by any Governmental Authorities with respect thereto.

B. Notwithstanding anything herein to the contrary, Tenant's use of the Premises will be such as to comply with all requirements of each Lender, including, but not limited to, each Lender's requirements with respect to the Environmental Laws and the Americans with Disabilities Act.

C. Tenant shall not "treat," "store" or "dispose" of any "hazardous substances," "hazardous wastes" or "toxic substances" as those terms are defined under CERCLA, 42 U.S.C. 9601 et. seq., RCRA, 42 U.S.C. 6901 et. seq., or TSCA, 15 U.S.C. 2601 et. seq., or under similar Michigan law, on, at or below the Premises, and shall maintain generator-only status; provided, however, that Tenant may: (i) accumulate such substances or wastes as allowed under applicable laws and regulations for off-site treatment, off-site storage, or off-site disposal, and (ii) use or store commercial products on-site which may contain such substances.

D. Tenant may not use groundwater at, in, or under the Premises for any purpose, including potable and non-potable uses, which uses shall expressly be prohibited.

E. Tenant shall be solely responsible for the proper maintenance of the Premises, including: (a) any and all current or future structures, utilities, sewer lines, facilities, parking lots and storage areas, and (b) any maintenance issues related to any future development, excavation, demolition, or construction activities at the Premises.

F. Any and all soil and/or debris management and surface water and/or groundwater management required or necessary because of excavation, demolition, or soil disturbance related to future use, development, renovation, modification, or construction at or of the Premises (other than by Landlord or a subtenant), is the sole obligation and liability of Tenant. Such soil and/or debris management and surface water and/or groundwater management may include in-place management, excavation, sediment and erosion control, and disposal or other soil and debris management options which are allowed or required under applicable federal, state, or local environmental laws, regulations, or ordinances, including the requirements imposed under Section 20107(a) of Michigan Public Act 451, Part 201.

G. Any and all management of any utility lines or piping, including without limitation any sanitary or storm sewers and any gas, water, electrical, or any other similar utility lines or piping which management may be required or necessary to properly maintain the Premises or because of excavation, demolition, or soil disturbance related to future use, development, renovation, modification, or construction at or of the Premises, is the sole obligation and liability of Tenant.

H. Tenant, on behalf of itself and its successors and assigns, covenants and agrees that no subsurface investigations or excavations of any kind shall be made on the Premises without the prior written consent of General Motors Corporation, such consent not to be unreasonably withheld or delayed.

I. Notwithstanding anything herein to the contrary, no part of the business activities of the Tenant or any subtenant of the Property which are conducted at the Property will consist of the (i) the rental to others of "residential rental property" as defined in Section 168(e)(2)(A) of the Code or (ii) the operation of any: (A) private or commercial golf course, (B) country club, (C) massage parlor, hot tub facility, or suntan facility, (D) race track or other facility used for gambling, (E) store the principal business of which is the sale of alcoholic beverages for consumption off premises, (F) any other prohibited business under Section 45D of the Code, or (G) shooting gallery; adult bookstore or facility selling or displaying pornographic books, literature or videotapes (materials shall be considered "adult" or "pornographic" for such purposes if the same are not available for sale or rental to children under 18 years old because they explicitly deal with or depict human sexuality but materials shall not be considered "adult" or "pornographic" if they are part of a course, seminar, lecture, conference or other educational offering or are presented for display or sale as part of an exhibition sponsored by CCS); bingo or similar games of chance (excluding such games conducted by a charitable organization as part of a fundraising activity), however lottery tickets and other items commonly sold in retail establishments may be sold as an incidental part of business; or video game or amusement arcade, except as an incidental part of another primary business, provided that a video game or amusement arcade subleased and/or operated by an independent third party at the request of CCS and available to the students shall be deemed to be an incidental part of the operations of CCS (collectively (i) and (ii) are referred to as "Tenant Excluded Business").

## **SECTION 7 MAINTENANCE AND REPAIRS**

Throughout the Term, Tenant shall, at Tenant's sole cost and expense, keep the Premises and the Improvements in good order and condition and shall make or cause to be made all necessary repairs, alterations and/or replacements thereto, interior, exterior, structural and nonstructural, reasonable wear and tear excepted. All such repairs, alterations, and replacements shall be equal in quality to the original work. Tenant shall, at Tenant's sole cost and expense, keep the sidewalks, curbs, entrances, passageways, and areas adjoining or appurtenant to the Premises in a clean and orderly condition, free of snow, ice, rubbish, and obstruction. Landlord shall have no responsibility whatsoever in respect of maintenance, repair or replacement, it being intended that Tenant shall have full responsibility for the Premises. Tenant shall hold Landlord harmless with respect to any liability in respect of maintenance, repair or replacement required under this Section. Landlord and Tenant shall promptly furnish the other with copies of all notices given to each by Governmental Authorities concerning environmental matters affecting the Premises and copies of all responses to Governmental Authorities.

## **SECTION 8 RIGHT TO ENTER**

Landlord shall have access to the Premises and the Improvements in company with an agent of Tenant at any and all reasonable times for the purpose of inspecting the Premises, or for the purpose of carrying out the Landlord's rights described herein, subject to the security requirements of any tenant or subtenant in possession.

## **SECTION 9 CONSTRUCTION AND ALTERATION OF IMPROVEMENTS**

A. The Building comprising a portion of the Premises is a "certified historic structure" within the meaning of Section 47 of the Code. Landlord is rehabilitating the Building in a manner intended to qualify for the Historic Tax Credit and has agreed to pass the Historic Tax Credit through to Tenant in accordance with the provisions of Section 50(d) of the Code. The nature and scope of such rehabilitation work, including certain of the Tenant Improvements, is more specifically described in the Plans and Specifications. Landlord acknowledges that it is Landlord's obligation to complete such rehabilitation in accordance with the Plans and Specifications and to complete all Tenant Improvements and all other improvements provided for in the Plans and Specifications that are to be constructed or made pursuant to the Construction Contract ("Landlord's Work"). Landlord agrees, at its sole expense except as otherwise provided below, to cause the Landlord's Work to be completed in a good and workmanlike manner conforming to the Plans and Specifications, the Historic Preservation Application, and all applicable law. Except when caused by the negligence or willful misconduct of Tenant or any of its agents, contractors or employees, Landlord shall indemnify and save Tenant harmless against and from, and shall reimburse Tenant for, all Adverse Consequences which may be imposed upon or incurred or paid by or asserted against Tenant by reason of or in connection with Landlord's failure to complete Landlord's Work. Notwithstanding the foregoing, if Tenant receives from any subtenant under any Sublease any payment to be applied to the cost of Tenant Improvements, Tenant shall promptly remit any such sum to Landlord. If Tenant is obligated under any Sublease to pay to the subtenant thereunder an amount based on the construction allowance provided by Tenant and/or the aggregate payments paid by such subtenant with respect to any Tenant Improvements exceeding the total cost of such

Tenant Improvements, and Landlord has agreed to pay any such amount, Landlord shall promptly remit such sum to Tenant upon Tenant's request. Landlord shall correct any defects in workmanship or materials in Landlord's Work which Landlord receives written notice of within one (1) year after substantial completion of the Landlord's Work provided that if any portion of the Landlord's Work is, pursuant to Landlord's contract with a contractor, assigned a different date of substantial completion than the date of substantial completion for the balance of the Landlord's Work, Landlord shall correct defects in workmanship or materials in any such portion of Landlord's Work which Landlord receives written notice of within one year after the date of substantial completion of such portion of Landlord's Work. Landlord hereby assigns to Tenant that portion of any guaranties of workmanship and/or materials that Landlord may receive in connection with Landlord's Work that extend beyond such one year period; provided, however, that upon the termination of this Lease, such portions of such guaranties shall, automatically and without the requirement of any further action, be reassigned and vest back in Landlord.

B. Subject to the provisions of **Section 7** hereof, Tenant shall not demolish or destroy the Improvements without the prior written consent of Landlord. Tenant shall not have the right to make any material changes, additions, or alterations, structural or otherwise, to the Improvements without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed. Any such work consented to by Landlord shall be performed in a good and workmanlike manner; in accordance with all applicable laws, statutes, ordinances, and codes; and without deviation or change in the plans in any material respect as approved by Landlord. Any contract for the construction or alteration of any Improvements entered after the Commencement Date, and any amendment thereto, shall be subject to the reasonable approval of Landlord, and such building contract shall state that the contractor's duties and obligations thereunder and in connection with the Improvements inure to the benefit of Landlord as well as Tenant.

C. Tenant shall have no authority, express or implied, to create or place or permit to be created or placed any lien or encumbrance, of any kind or nature whatsoever, upon the Premises. Tenant covenants and agrees to pay promptly all sums legally due and payable by Tenant on account of any labor performed, or on account of any material supplied, on or to the Premises as to which any lien is or legally can be asserted against Tenant's leasehold interest in the Premises or the Improvements.

D. Any maintenance and repair work, alterations, replacements, and additions in connection with the Improvements shall be of good quality.

E. Tenant shall not permit any tenant under any sublease to alter the Premises in any manner which would (i) increase Tenant's or Landlord's responsibilities for compliance with the applicable laws, without the prior written approval of Landlord, which shall not be unreasonably withheld, conditioned or delayed, or (ii) cause a default under the Loan Documents. The foregoing shall apply to tenant improvements constructed by Tenant or by any of its tenants. Landlord may condition any such approval upon receipt of a certificate from an architect, engineer or other person reasonably acceptable to Landlord that such improvements comply with the Americans with Disabilities Act and all other governmental requirements with respect to access to the Premises.

## SECTION 10 INSURANCE

A. Tenant shall provide or cause to be provided such insurance, with such terms and conditions, as is required under the terms of the Mortgages. In the event that there is no Mortgage on the Building or any Lender imposes no insurance requirements, Tenant shall, at its own cost and expense, carry (or cause to be carried by subtenants) with companies acceptable to Landlord and any Lender, insurance in respect of the Premises and the Improvements that satisfies the requirements set forth in the Tenant Operating Agreement, which insurance may be maintained under a policy or policies covering the Premises and other premises in which Tenant or Tenant's affiliates have an interest.

B. At a minimum, however, the following types of insurance shall be maintained in the name of the Tenant:

- (i) Commercial General Liability Insurance (Bodily Injury and Property Damage);
- (ii) Commercial Property Insurance;
- (iii) During the time that any alterations or improvements to the Premises are being made by Tenant (or such other appropriate period) All-Risk Builder's Risk Insurance or, in the alternative, Property Insurance;
- (iv) Automobiles/Hired and Non-Owned Liability Insurance;
- (v) Boiler and Machinery: Comprehensive Form Insurance;
- (vi) Worker's Compensation and Employees Liability Insurance; and
- (vii) Any other insurance the Tenant is required to maintain pursuant to any Sublease.

Insurance coverage must be evidenced by certificates of insurance and properly endorsed policies certified as true and correct by the insurance agent. All evidence of insurance must satisfy the following requirements: (a) the Tenant (rather than the Manager or the Landlord) should be the named insured where indicated; (b) the Landlord and New Markets 37, LLC should be named as additional insureds with respect to the policy issued to satisfy B(i) above; (c) policies must be written with an A.M. Best rated company of "A-" or better and a financial size category rating by A.M. Best of VIII or higher; (d) all binders and policies should contain a cancellation clause stating that the policy will not be canceled or non-renewed without at least thirty (30) days prior written notice to the Tenant and the Landlord except for non-payment of premium where ten (10) days notice will be given; (e) certificates must document the amount of all deductibles; and (f) all binders and policies must be accompanied by evidence of premium payment.

C. From and after the Commencement Date and at all times throughout the Term, Tenant shall at all times maintain rental interruption insurance which shall include coverage (a)

naming the Landlord as additional insured; (b) in an annual amount equal to the greater of (i) the respective annual depreciation with respect to the Building or (ii) the respective annual Tenant obligation to pay Rent under this Lease, including Base Rent and Additional Rent, in accordance with Exhibit B; and (c) for a term equal to the Term of this Lease, which term may be satisfied by a series of one-year renewals. Such rental interruption insurance, also known as rental continuation insurance, includes the costs of rebuilding in the event of destruction of the Premises and includes a rental continuation benefit that would guarantee the Tenant continue to make payment of the rents due under this Lease while the Premises is being rebuilt. Notwithstanding the foregoing, for the first five years after the Commencement Date, the premium for the rental interruption insurance shall be paid for by the Tenant.

D. Each insurance policy shall, to the extent obtainable, contain provisions that no act or negligence of Tenant or any subtenant or occupant of the Premises, or its or their contractors or subcontractors or their agents or employees which might otherwise result in a forfeiture of such insurance or any part thereof, shall in any way affect the validity or enforceability of such insurance insofar as Landlord or any Lender is concerned. All insurance required to be maintained by Tenant under **Section 10** shall name Landlord and each Lender as additional insureds.

E. If Tenant shall fail to maintain any such insurance required hereunder, Landlord may, at Landlord's election, after fifteen (15) days' written notice to Tenant, procure the same, and the premium cost shall be Additional Rent, immediate and payable, it being hereby expressly covenanted and agreed that payment by Landlord of such premium shall not be deemed to waive or release the obligation of Tenant to payment thereof or any of Landlord's other rights hereunder.

F. Subject to the requirements of the Lenders (which shall prevail), insurance proceeds recovered by reason of destruction of the Improvements on the Premises shall be paid to Landlord to be held in escrow for Tenant, and such proceeds shall be used to repair and restore the Improvements so damaged with the same type of material and quality of construction as when the Improvements were originally constructed. Any excess may be applied first to the payment of the outstanding principal balance of the Mortgage having the highest priority, and thereafter to the payment of the outstanding principal balance of any other Mortgage (if any), and thereafter to Tenant. If the insurance proceeds are insufficient to pay for the full cost of the repair and restoration of the Improvements, Tenant shall deposit the deficiency with Landlord within thirty (30) days following the payment of insurance proceeds by the insurance carrier, and such sum shall be disbursed by Landlord following disbursement of the insurance proceeds to pay for the completion of the repair and restoration.

G. Each party waives all rights and claims against each other for property losses, damage or injury caused by fire or other perils to property as are covered by the property insurance required to be maintained by Tenant pursuant to this **Section 10**, including any claims for deductibles.

## **SECTION 11 CONDEMNATION**



A. In the event that the entire area of the Premises shall be acquired by a Taking, and such Taking relates to the entire fee simple title to the Premises, as well as to the right, title, and interest of Tenant, the Lease shall be terminated as of the date of such Taking, provided however, the Tenant shall remain obligated under the Lease as provided in Section 3.H. The parties hereby agree that there shall be an equitable apportionment of the condemnation award as set forth in Section 11.D hereof.

B. If there shall be a Taking of any portion of the Premises less than the whole, the portion of the Premises not so taken shall be restored to good condition, and Tenant shall be responsible for restoration of the Improvements to the extent of available proceeds, and Tenant shall remain obligated under this Lease as provided in Section 3.H hereof.

C. Subject to the terms of the Financing Documents, if there is a Taking of all or part of the right to possession and use of the Premises, Tenant shall be entitled to that portion of the award, to the extent that it relates to a period within the Term, and there shall be no abatement or reduction in Rent.

D. In the event of any Taking, the net condemnation award (after deduction of all expenses, including fees of attorneys, appraisers, and expert witnesses) shall be paid as follows and in the following order of priority:

(i) To any Lender, the balance due on any loan secured by a Mortgage; provided, however, that if there is more than one Lender, the net condemnation award shall be applied to the payment in full (or until the net condemnation award has been exhausted) of a loan secured by a Mortgage having a higher lien priority than another Mortgage prior to the application of the net condemnation award to the loan secured by the Mortgage of lower lien priority;

(ii) To Landlord, a sum equal to the value of the portion of the Premises taken, valued with the Improvements, determined as if the Improvements then situated thereon were the highest and best use to which the land could lawfully be put, plus the present value of Landlord's interest in the Improvements at the end of the Term; and

(iii) Notwithstanding anything to the contrary herein contained, Tenant shall be entitled to any award in respect of moving expenses, or loss of goodwill or profit or in respect of fixtures owned by Tenant, or the cost or expense for the repair and removal of such fixtures.

E. Tenant and any Lender shall have the right to intervene in any condemnation.

## **SECTION 12 ASSIGNMENT AND SUBLETTING**

A. Subject to the provisions of **Section 12.C**, Landlord may assign this Lease or Landlord's reversion hereunder without the necessity of obtaining Tenant's consent or permission.

B. Tenant may not assign or encumber this Lease, in whole or in part, by operation of law or otherwise, without the prior written consent of Landlord.

C. Notwithstanding anything herein to the contrary, (i) Landlord shall not assign or transfer this Lease to a person or entity that would cause a recapture or loss of all or any portion of the Historic Tax Credit passed through to Tenant hereunder, (ii) Tenant shall not enter into any sublease of any portion of the Premises whose occupancy thereof would, singularly, or in the aggregate with other tenants or subtenants of the Premises, cause the Premises to be deemed to be "tax-exempt use property" under Sections 47(c)(2)(B)(v) or 168(h) of the Code (or any corresponding or related provision of the Code), and (iii) (ii) Tenant shall not enter into any sublease of any portion of the Premises whose occupancy thereof would constitute a Tenant Excluded Business.

D. Tenant shall perform all of its obligations under all Subleases.

### SECTION 13 EVENTS OF DEFAULT

A. Any one or more of the following events shall constitute an "Event of Default" hereunder:

(i) If default shall be made in the due and punctual payment of any Annual Rent or any part thereof payable under this Lease when and as the same shall become due and payable and the same is not cured within ten (10) business days from the date of Notice of Default from Landlord to Tenant; or

(ii) If default shall be made in the due and punctual payment of the Additional Rent, or Auxiliary Rent, or any of the other amounts or any part thereof payable by Tenant under this Lease when and as the same shall become due and payable and the same is not cured within ten (10) days from the date of Notice of Default from Landlord to Tenant; or

(iii) If default shall be made by Tenant in the performance of, or in compliance with, any of the other terms, covenants, or conditions contained in this Lease; and the same is not cured within thirty (30) days from the date of Notice of Default from Landlord to Tenant; or

(iv) Tenant files a petition in bankruptcy or insolvency or for reorganization under any bankruptcy or insolvency law or act or for the appointment of a receiver or trustee of all or a portion of Tenant's property; or

(v) Involuntary proceedings are instituted against Tenant under any bankruptcy or insolvency law or act and are not vacated or withdrawn within sixty (60) days after the date of filing thereof.

B. Whenever Landlord serves upon Tenant a Notice of Default, pursuant to the notice provisions hereof, Landlord also shall deliver a copy of such Notice of Default to the Lenders.

## **SECTION 14 CURING OF DEFAULT**

With respect to any default described in **Section 13.A.(iii)** that is of such nature that it cannot, by due diligence, be cured within the period of time specified in **Section 13.A.(iii)**, Tenant shall commence the curing of such default within the period specified in **Section 13.A.(iii)**, then Tenant shall be entitled to as long a period to cure such default as may be required by Tenant in the exercise of due diligence in endeavoring to cure such default, provided that Tenant is diligently pursuing a cure of the default.

## **SECTION 15 LANDLORD'S REMEDIES**

A. Upon the expiration of the period of time set forth in a Notice of Termination, without the specified Events of Default having been cured, this Lease shall terminate and Tenant shall then immediately quit and surrender the Premises and each and every part thereof to Landlord, and Landlord may enter upon the Premises, by force, summary proceedings, or otherwise, subject in each case to the provisions of any of the Subleases. In any of such events, Landlord shall be entitled to the benefit of all provisions of the ordinances and public local laws of the city or county where the Premises is located and of the public general laws of the State of Michigan dealing with the speedy recovery of lands and tenements held over by tenants or proceedings in forcible entry and detainer. Upon any entry or re-entry by Landlord, with or without legal process, Landlord shall also have the right (but not the obligation) to relet all or any part of the Premises, from time to time, at the risk and expense of Tenant, subject to the Subleases. No re-entry by Landlord with or without a declaration of termination shall be deemed to be an acceptance or a surrender of this Lease or as a release of the Tenant's liability for damages under the provisions of this Section. Landlord covenants notwithstanding any remedy granted to it under this Lease, not to disturb the possession of any subtenant then occupying the premises under any Sublease.

B. Tenant further agrees (i) notwithstanding re-entry by Landlord with or without termination pursuant to the provisions above, or (ii) if this Lease is terminated by reason of an Event of Default, or (iii) if Landlord retakes possession with or without process of law and/or re-enters with or without a declaration of termination, or (iv) if Landlord, following any of the foregoing events, elects to let or relet the Premises (whether once or more than once during the remainder of the Term, and upon such conditions as are satisfactory to Landlord), then Tenant shall, nevertheless, in each instance, remain liable for the performance of any covenant of this Lease then in default and for all Rent that may be due or sustained before the date of the occurrence of any of the events described in items (i), (ii), or (iii) above, together with the cost of seizure and repossession of the Premises and reasonable attorney's fees incurred by Landlord as a result of the breach of this Lease. In any of such events, Tenant agrees that it will remain liable to Landlord for liquidated damages to be calculated and paid as set forth in the following Subsection.

C. As liquidated damages arising out of the foregoing, Tenant shall pay to Landlord an amount of money equal to the total amount of Rent that would have become payable during the unexpired portion of the Term remaining at the time of re-entry, repossession, or termination,

less the net amount of Rent, if any, received by Landlord during the remaining Term from others to whom the Premises may be rented, at such times, upon such terms and conditions, and at such rentals as Landlord shall deem proper. Landlord shall first deduct from any amounts received from any such letting or reletting any reasonable costs and expenses incurred in connection with the Event of Default, including, but not limited to, the cost to repair, restore, renovate, or decorate the Premises for a new tenant, reasonable attorney's fees, real estate commissions, and the cost of any legal actions brought against Tenant. In connection with any such reletting(s), Landlord shall have the absolute right, without such actions being, or being deemed to be, a surrender of its rights, a cancellation of this Lease, or a release of Tenant's liability hereunder for the balance of the Term, to let or relet the Premises for a longer or shorter term than that remaining after the Event of Default, to lease more or less area than that contained in the Premises, to lease the Premises together with other premises or property owned or controlled by Landlord, and to change the character or use of the Premises. Tenant shall continue to be responsible and liable for any deficit created thereby, and Landlord shall retain and apply any surplus until all such liquidated damages shall have been paid in full to Landlord. The liquidated damages shall be payable in monthly installments, in advance, on the first day of each calendar month following re-entry, with or without termination, and shall continue until the date fixed herein as the normal expiration date of the Term of this Lease.

D. Suit or suits for the recovery of such deficiency or damages or for a sum equal to any installment or installments of Rent may be brought by Landlord from time to time, at Landlord's election. Nothing herein contained shall be deemed to require Landlord to await the date when this Lease or the Term would have normally expired had there been no such Event of Default by Tenant or no such cancellation or termination by Landlord, nor shall Landlord be barred by any claim involving a statute of limitations or other defense should Landlord delay in filing suit.

E. No entry or re-entry by Landlord, whether had or taken under summary proceedings or otherwise, nor any termination hereof, nor any letting or reletting shall absolve or discharge Tenant from liability hereunder.

F. No payment received by Landlord from Tenant after re-entry or the cancellation or termination of this Lease in any lawful manner shall reinstate, continue, or extend the Term of this Lease or affect any notice theretofore given to Tenant by Landlord or operate as a waiver of the right of Landlord to recover possession of the Premises by proper suit, action, proceedings, or other remedy.

G. Nothing in this Section shall limit or prejudice the right of Landlord to prove and to obtain, as liquidated damages by reason of a termination arising out of the provisions of this Section, an amount equal to the maximum allowed by any statute or rule of law in effect as of the time when, and governing the proceedings in which, such damages are to be proved, whether or not such amount be greater, equal to, or less than the amount of liquidated damages computed under this Section.

**SECTION 16**  
**SPECIAL RIGHTS OF INVESTOR AND SUBTENANTS**

The following shall apply with respect to the Investor:

A. Landlord agrees to accept payment or performance by the Investor or the subtenant leasing the largest portion of the Premises ("**Largest Subtenant**") as though Tenant had done the same, and the Investor and the Largest Subtenant shall have the right to cure any breach, default or Event of Default within the time periods provided in this **Section 16**.

B. Landlord agrees to give the Investor, at the Investor Address, a written copy of all notices and demands that Landlord gives to Tenant at the time such notices and demands are given to the Tenant. No notice or demand under this Lease shall be effective until after the Investor receives such notice. All notices of a default or an Event of Default given by Landlord under this Lease shall describe the default or Event of Default with reasonable detail, and set forth all of the applicable cure period(s).

C. After receipt by Tenant of a notice of an Event of Default under this Lease and the expiration of any applicable period of cure given to Tenant under this Lease, Landlord shall deliver an additional notice (an "**Investor's Notice**") to the Investor and the Largest Subtenant. Such notice shall specify the Event of Default and shall state that Tenant's period of time to cure has expired. The Investor and the Largest Subtenant shall thereupon have the additional periods of time to cure any uncured Event of Default, as set forth below, without payment of default charges, fees, late charges or interest that might otherwise be payable by Tenant. The Investor or the Largest Subtenant must pay any due and unpaid Rent as a condition to curing an Event of Default that is based upon the non-payment of Rent. Landlord shall not terminate this Lease or exercise its other remedies under this Lease if:

(i) (a) Within ten (10) business days after the Investor's receipt of the Investor's Notice with respect to an Event of Default described in **Section 13.A.(i) or (ii)**, the Investor or the Largest Subtenant cures such Event of Default or (b) within thirty (30) days after the Investor's receipt of the Investor's Notice of any other Event of Default, the Investor or the Largest Subtenant (A) cures the Event of Default, or (B) if the Event of Default reasonably requires more than thirty (30) days to cure, commences to cure the Event of Default and diligently prosecutes the same to completion; or

(ii) If any Event of Default, by its nature, is such that it cannot practicably be cured within said thirty (30)-day period, then the Investor and the Largest Subtenant shall have such time as shall be reasonably necessary to cure the Event of Default provided that such person commences such cure within said thirty (30)-day period and thereafter diligently prosecutes the cure to completion, and (A) cures all other Events of Default reasonably capable of cure, (B) complies with all other covenants and conditions of this Lease reasonably capable of compliance, and (C) continues to pay all real property taxes and assessments, and insurance premiums to be paid by Tenant under this Lease.

D. Landlord agrees to accept performance by the Investor or the Largest Subtenant of all cures, conditions and covenants as though performed by Tenant, and agrees to permit the

Investor access to the Premises to take all such actions as may be necessary or useful to perform Tenant's covenants under this Lease or to cure an Event of Default of Tenant. The Investor or the Largest Subtenant shall not be required to perform any act that is not susceptible to performance by the Investor or the Largest Subtenant; provided, however, that if the Investor or the Largest Subtenant is unable to cure an Event of Default or to perform a Tenant covenant because of the foregoing limitation, Landlord shall be permitted to terminate the Lease, and shall honor any Subleases then in effect.

## **SECTION 17 TENANT'S INDEMNIFICATION**

Except when caused by the negligence or willful misconduct of Landlord or any of its agents, contractors or employees, Tenant shall indemnify and save Landlord harmless against and from, and shall reimburse Landlord for, all Adverse Consequences which may be imposed upon or incurred or paid by or asserted against Landlord or Landlord's fee or reversionary or other interest in the Premises by reason of or in connection with any of the following:

- A. Tenant's use and occupancy of the Premises;
- B. the conduct of Tenant's business or any work or activity or other things allowed or permitted by Tenant to be done in or on the Premises;
- C. any breach or default in the performance of any of Tenant's obligations under this Lease including but not limited to any violation of any Handicapped Access Laws;
- D. any misrepresentation or breach of warranty by Tenant under this Lease; and/or
- E. the negligence or willful misconduct of Tenant, its agents, employees, invitees or contractors.

In case any action or proceeding is brought against Landlord by reason of any claims described in this Section, Tenant, if Landlord gives Tenant prompt notice thereof, shall, at Tenant's expense, resist or defend such action or proceeding.

## **SECTION 18 LANDLORD'S WARRANTIES**

Landlord warrants that if and so long as Tenant shall not be in default hereunder beyond any applicable cure period, Tenant shall quietly hold, occupy, and enjoy the Premises and all rights relating thereto during the Term, without hindrance, ejection, or molestation by Landlord or any party claiming by, through, or under Landlord.

## **SECTION 19 LANDLORD'S RIGHT TO PERFORM**

If Tenant commits a default in the making of any payment or in the doing of any act herein required to be made or done by Tenant and which is capable of being made or done by Landlord, then Landlord may, but shall not be required to, make such payment or do such act;

provided, however, that except in the case of an emergency, for which no notice is required, Landlord shall not make any payment or perform any such act without giving Tenant twenty (20) days' prior written notice of its intention to do so. The amount of the expense thereof, if made or done by Landlord, shall be charged to Tenant as Additional Rent, payable on demand, and the late charge specified in **Section 4** shall accrue from the date paid or performed by Landlord; but the making of such payment or the doing of such act by Landlord shall not operate to cure such default or to estop Landlord from the pursuit of any remedy to which Landlord may be entitled because of any breach on the part of Tenant of any term, covenant, or condition herein, nor shall the acceptance of Annual Rent herein by Landlord either from Tenant or any subtenant, whether or not such delay or acceptance be with knowledge on the part of Landlord of such breach, prejudice Landlord's privilege to invoke such remedy, which privilege shall continue until such breach is cured.

## **SECTION 20**

### **ESTOPPEL CERTIFICATES**

A. Tenant agrees at any time and from time to time, upon not less than ten (10) days' prior written notice by Landlord, to execute, acknowledge, and deliver, without charge, to Landlord, or to any person designated by Landlord, a statement in writing certifying: (i) that this Lease is in full force and effect and has not been modified, assigned, subleased, supplemented, or amended except by such writings as shall be stated; (ii) that Tenant has not received any Notice of Default or Notice of Termination of this Lease (or, if Tenant has received such notice that the default has been cured or termination has been revoked, if such be the case); (iii) that, to the knowledge of Tenant, no default exists hereunder (or if any such default does exist, specifying the same and stating that the same has been cured, if such be the case); (iv) that Tenant has no claims, defenses, set-offs, or recoupments against Landlord hereunder (or if Tenant has any claims, defenses, set-offs, or recoupments, specifying the same); and (v) the dates to which Rent has been paid.

B. Landlord agrees at any time and from time to time, when reasonably requested by Tenant in writing, to execute, acknowledge, and deliver, without charge, to Tenant, or to any person designated by Tenant, a statement in writing certifying: (i) that this Lease is in full force and effect and has not been modified, assigned, subleased, supplemented, or amended except by such writings as shall be stated; (ii) that no Notice of Default or Notice of Termination of this Lease has been served on Tenant (or if Landlord has served such notice, that the default has been cured or the termination has been revoked, if such be the case); (iii) that Landlord has no claims against Tenant hereunder (or, if Landlord has any such claims, specifying the same); and (iv) the dates to which the Rent has been paid by Tenant.

C. The failure of either party to execute, acknowledge, and deliver to the requesting party a statement in accordance with the provisions of this Section within the period set forth herein shall constitute an acknowledgment by the party to whom the request is made, which may be relied upon by any person holding or intending to acquire any interest whatsoever in the Premises or the Building, that, except as stated by the requesting party in the request, this Lease has not been assigned, amended, changed, or modified, is in full force and effect, and that the Rent has been duly and fully paid not beyond the respective due dates immediately preceding the date of the request for such statement. As to any persons entitled to rely on such statements,

such failure shall also be deemed to be a waiver of any defaults by the requesting party or defenses, set-offs, recoupments, or counterclaims against the enforcement of this Lease by the requesting party which may exist prior to the date of the written request.

## SECTION 21 PASS-THROUGH ELECTION

A. Subject to the terms and conditions of this Agreement, Landlord shall file an election (the "**Election**") with respect to the Building to pass through the Historic Tax Credit relating to the Premises to Tenant pursuant to the provisions of Section 50(d) of the Code and Section 1.48-4 of the Treasury Regulations.

B. The Election shall be substantially in the form attached to that certain Pass-Through Agreement of even date herewith between Landlord and Tenant and shall be filed with Tenant on or before the respective due dates (including any extensions of time) of Tenant's tax returns for the years in which the QRE incurred in connection with the rehabilitation of the Building are first placed in service.

C. Landlord shall prepare and submit to the National Park Service, the Secretary of the Treasury or the Internal Revenue Service (or any other governmental authority designated for such purpose), on a timely basis, any and all requests for approval, reports, information returns and other certifications and information required

(i) to ensure that the rehabilitation of the Building will qualify for the Historic Tax Credit;

(ii) to pass through the Historic Tax Credit to Tenant; and

(iii) subject to the provisions of this Lease, to avoid recapture of the Historic Tax Credit under Section 50 of the Code or any reduction of the Historic Tax Credit under Sections 49, 50(b)(3) or 168(h) of the Code.

D. In order to induce Tenant to enter into this Lease, Landlord hereby represents and covenants as follows:

(i) The Building is listed on the National Register of Historic Places maintained by the Department of the Interior pursuant to the National Historic Preservation Act of 1966.

(ii) Upon completion of the rehabilitation of the Building, the QRE incurred in connection therewith will be "new section 38 property" (within the meaning of Section 1.48-2 of the Regulations) in the hands of Landlord, and the "original use" of such QRE (within the meaning of Section 1.48-4(b) of the Regulations) will commence with Landlord. Such rehabilitation will, upon completion, constitute a "certified rehabilitation" of a "certified historic structure" (as such terms are defined in Section 47 of the Code).



(iii) The QRE incurred in connection with the rehabilitation of the Building would constitute "new section 38 property" to Tenant if Tenant had actually purchased such QRE, and Tenant will be deemed to be the "original user" of such QRE (within the meaning of Section 1.48-4(b) of the Regulations).

(iv) Neither Landlord nor any of its direct or indirect partners or members is a mutual savings bank, cooperative bank, or domestic building and loan association to which Section 593 of the Code applies; a regulated investment company or real estate investment trust subject to taxation under Subchapter M, Chapter 1 of the Code; or a cooperative organization described in Section 1381(a) of the Code.

(v) To the best of its knowledge, Landlord does not and will not have any debt or financing that constitutes "nonqualified nonrecourse financing with respect to the credit base" of the Building within the meaning of Section 49(a)(1) of the Code.

(vi) The QRE incurred during the 60-month period ending in the year in which the Credit Commencement Date occurs for any portion of the Building on its placed in service date for federal income tax purposes (the "**Measuring Period**") will exceed the greater of (i) \$5,000 or (ii) the adjusted basis (within the meaning of Section 47(c)(1)(C)(i) of the Code) of the Building and its structural components as of the first day of the Measuring Period.

(vii) All of the expenditures included in the calculation of QRE for the Building are properly chargeable to a capital account for commercial real property (or an addition or improvement thereto) for which depreciation is allowable under Section 168 of the Code.

(viii) Landlord did not use for personal or business purposes or place in service any portion of the Building on or prior to the Effective Date. As of the Effective Date, the Building was not in a condition or state of readiness for its operation or occupancy as a commercial rental complex.

(ix) No one has claimed or will claim any Historic Tax Credits with respect to the QRE incurred by Landlord with respect to the Building except Tenant.

(x) The Building was placed in service at least once by a prior owner before the beginning of its rehabilitation by Landlord.

(xi) The rehabilitation expenditures that form the basis for the Historic Tax Credit of the Building do not include (i) any expenditure with respect to which a method other than the straight-line method of depreciation over a recovery period determined under Section 168(c) or (g) of the Code (as modified by Section 251(d)(4) of the Tax Reform Act of 1986) will be used, (ii) the cost of acquiring the Building, or (iii) to the best of Landlord's knowledge, the cost of any enlargement of the Building, excluding any increase in floor space resulting solely from interior remodeling.

(xii) No portion of the Building is, or will be, tax-exempt use property (within the meaning of Section 168(h) of the Code).

(xiii) Landlord shall not take any action or permit any action to be taken by any of its affiliates that would (i) cause the Election not to be effective or otherwise result in a loss of the ability of Tenant to utilize the Historic Tax Credit to be passed through to Tenant pursuant to the terms of this Lease or (ii) cause a Recapture Event to occur.

E. In order to induce Landlord to enter into this Lease, Tenant hereby represents, warrants, and covenants as follows:

(i) Subject to the satisfaction by the Landlord of its obligations under this **Section 21** and except as otherwise required by any applicable provisions of the Code, Tenant shall claim the Historic Tax Credit passed through to it pursuant to the provisions of this Agreement for the rehabilitation of the Building on its United States federal income tax returns for the year in which the QREs are first placed in service (subject to any available carryback or carryforward election).

(ii) The QRE incurred in connection with the rehabilitation of the Building would constitute "new section 38 property" to Tenant if Tenant had actually purchased such QRE.

(iii) Tenant shall file its tax returns, shall execute and deliver such certifications, statements and other documents, and shall take such other action as may be necessary to effectuate the pass-through of the Historic Tax Credit relating to the Building to Tenant in accordance with the provisions of Section 50(d) of the Code and Section 1.48-4 of the Regulations.

(iv) Tenant shall not take any action or permit any action to be taken by any of its affiliates that would (i) cause the Building to constitute "tax-exempt use property" within the meaning of Section 168(h) of the Code (or any successor provision) or (ii) cause a Recapture Event to occur.

## **SECTION 22 NOTICES**

All Notices shall be in writing and shall be sent by a nationally recognized next-business-day courier service or facsimile (with evidence of receipt) to Landlord or Tenant at the respective address or telecopier number set forth in **Section 1**. Either party may, by notice given as aforesaid, change its address for all subsequent Notices. Notices shall be deemed to have been given on the next business day following the day when transmitted in accordance herewith. All Rent and payments of monies due to Landlord shall be made to Landlord at Landlord's Address.

## **SECTION 23 RECORDING**

The parties hereto agree to record a statutory short-form memorandum of this Lease, but this Lease will not be recorded.

## **SECTION 24 WAIVER OF JURY TRIAL**

Landlord and Tenant waive trial by jury in any action or proceeding brought by either of the parties hereto against the other or on any counterclaim in respect thereof on any matters whatsoever arising out of, or in any way connected with, this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises and/or any claim of injury or damage under this Lease.

#### **SECTION 25 NO PARTNERSHIP**

Landlord shall not be construed or held to be a partner or associate of Tenant in the conduct of Tenant's business, it being expressly understood and agreed that the relationship between the parties hereto is and shall at all times remain, during the Term, that of landlord and tenant.

#### **SECTION 26 NO WAIVER**

No failure by Landlord or Tenant to insist upon the performance of any term, covenant, or condition of this Lease or to exercise any right or remedy consequent upon a default or Event of Default hereunder, and no acceptance of full or partial payment of Rent during the continuance of any such default or Event of Default shall constitute a waiver of any such default or of such term, covenant, or condition. No waiver of any default or Event of Default shall affect or alter this Lease, but each and every term, covenant, and condition of this Lease shall continue in full force and effect with respect to any other then existing or subsequent default or Event of Default hereunder.

#### **SECTION 27 APPLICABLE LAW, CONSTRUCTION OF LANGUAGE OF LEASE**

This Lease is made pursuant to, and shall be construed and enforced in accordance with, the laws in force in the State of Michigan. All provisions of this Lease shall be construed to be "conditions" and "covenants" as though language specifically expressing or imposing covenants and conditions were used in each separate provision of this Lease.

#### **SECTION 28 COVENANTS RUN WITH THE LAND**

A. The parties hereto covenant and agree that all of the terms, covenants, conditions, agreements, rights, privileges, obligations, duties, specifications, and recitals in this Lease contained shall be construed as covenants running with the land, and as extending to, inuring to the benefit of, and binding upon Landlord and Tenant and their personal representatives, successors, and assigns to the same extent as if said personal representatives, successors, and assigns were herein named as original parties hereto, all to the end that this Lease shall bind the owner and holder of any interest whatsoever in or to the Premises and the Improvements thereon; provided, however, that no rights shall accrue to any personal representative, successor, or assign of Tenant not permitted under **Section 12**. If Tenant shall consist of more than one person or

entity, they shall all be bound jointly and severally by the terms, covenants, and conditions herein.

B. In any provision of this Lease involving Landlord's being defended, released from liability, indemnified, held harmless, or not being deemed to be liable for any action, omission, or circumstance, the term "Landlord" shall include Landlord and Landlord's contractors and subcontractors and its or their present and future controlling persons, managers, members, directors, officers, employees, and agents.

#### **SECTION 29 NO BROKER**

The parties hereto covenant and agree with each other that no person is entitled to a brokerage commission, finder's fee, or other similar form of compensation in connection with the execution of this Lease. Each party agrees to hold harmless the other for any action or claim by a person alleging entitlement to such a fee and claiming through that party.

#### **SECTION 30 ACCORD AND SATISFACTION**

No payment by Tenant or receipt by Landlord of a lesser amount than any payment of Rent herein stipulated shall be deemed to be other than on account of the earliest stipulated Rent due and payable, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as Rent be deemed an accord and satisfaction. Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such Rent or pursue any other remedy provided in this Lease, at law, or in equity.

#### **SECTION 31 HOLDING OVER**

Should Tenant hold over in possession of the Premises after the expiration of this Lease, Tenant shall be deemed to be occupying the Premises from month to month, subject to such occupancy being terminated by either party upon at least thirty (30) days' written notice, as though this Lease had continued. Such occupancy shall be subject to all of the terms, covenants, and conditions of this Lease insofar as the same may be applicable to a month-to-month tenancy except that the Annual Rent shall be calculated at one hundred twenty-five percent (125%) of the Annual Rent in effect at the expiration of this Lease. In addition, Tenant shall pay as Additional Rent to Landlord for all damages sustained by reason of Tenant's retention of possession. Nothing in this Section excludes Landlord's rights of re-entry or any other right hereunder.

#### **SECTION 32 CAPTIONS**

The captions appearing in this Lease are inserted only as a matter of convenience and do not define, limit, construe, or describe the scope or intent of the Sections of this Lease nor in any way affect this Lease.

**SECTION 33  
CALCULATION OF TIME**

In computing any Period of time prescribed or allowed by any provision of this Lease, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. Unless otherwise provided herein, all notice and other periods expire as of 5:00 p.m. on the last day of the notice or other periods.

**SECTION 34  
SEVERABILITY; REDUCTION OF CHARGES**

A. If the application of any term or provision of this Lease whether in whole or in part is held invalid or unenforceable in general or in any instance, the remainder of this Lease shall not be affected by such holding and shall be fully valid and enforceable.

B. In the event that any late charge, interest rate, or other payment provided herein exceeds the maximum applicable charge legally allowed, such late charge, interest rate, or other payment shall be reduced to the maximum legal charge, rate, or amount.

**SECTION 35  
COUNTERPARTS**

This Lease may be executed in multiple counterparts or in duplicate, and when so executed by all parties shall constitute one agreement.

**SECTION 36  
TOTAL AGREEMENT**

This Lease contains the entire agreement between the parties and cannot be changed or modified except by a written instrument subsequently executed by the parties hereto and (ii) is intended to govern the rights and obligations of the parties from and after the Commencement Date.

**SECTION 37  
NO MERGER**

There shall be no merger of this Lease or of the leasehold estate hereby created with the fee estate in the Premises or any part thereof by reason of the fact that the same person, firm, corporation, or other legal entity may acquire or hold, directly or indirectly, this Lease or the leasehold estate and the fee estate in the Premises or any interest in such fee estate, without the prior written consent of any Lender.

**SECTION 38**  
**TIME OF THE ESSENCE**

Time is of the essence in all provisions of this Lease to be performed by or on behalf of Tenant and Landlord.

**SECTION 39**  
**THIRD PARTY RIGHTS**

A. Notwithstanding anything to the contrary set forth elsewhere in this Lease, Landlord and Tenant hereby acknowledge and agree that the Investor shall be deemed to be a third-party beneficiary of the provisions of this Lease which specifically grant to the Investor rights and/or benefits, including, without limitation, those provisions which entitle the Investor to receive notice and exercise the right to cure. In connection therewith, the Investor may seek any and all remedies available to the Investor in order to enforce such provisions.

B. Rights of the Lender; Limitation on Liabilities. No Base Rent, Additional Rent or any other charge shall be paid more than ten days prior to the due dates thereof and payments made in violation of this provision shall (except to the extent that such payments are actually received by the Lender in possession or in the process of foreclosing its Mortgage) be a nullity as against the Lender, and Tenant shall be liable for the amount of such payments to the Lender. The covenants and agreements contained in this Lease with respect to the rights, powers and benefit of the Lender (including, without limitation, the covenants and agreements contained in this Section 39.B) constitute a continuing offer to any person, corporation or other entity, which by accepting a Mortgage subject to this Lease, assumes the obligations herein set forth with respect to the Lender; the Lender is hereby constituted a party to this Lease as an obligee hereunder to the same extent as though its name were written hereon as such; and the Lender shall be entitled to enforce such provisions in its own name. Tenant agrees on request of Landlord to execute and deliver from time to time any agreement which may be necessary to implement the provisions of this Section 39.

C. Subordination. This Lease and all rights of Tenant hereunder shall be subordinate to all current and future underlying leases, deeds of trust, mortgages or other security instruments or encumbrances covering any portion of the Premises or any interest of Landlord therein, as the same may be amended from time to time, provided that Landlord shall obtain a SNDA from any existing owner, lessor, mortgagee, current or future lender or holder of any security instrument or encumbrance covering any portion of the Premises using such party's customary form of SNDA provided an Event of Default does not exist. Tenant agrees that it will upon the request of Landlord without charge therefor (so long as there is no more than two requests in any 12-month period), execute, acknowledge and deliver any and all instruments necessary or desirable to confirm or give notice of the subordination provided herein. At any time, before or after any transfer of Landlord's interest in the Premises, Tenant shall, upon request of such transferee ("Successor Landlord"), automatically attorn to and become the Tenant of the Successor Landlord, without change in the terms or other provisions of this Lease (or, in the case of a permitted sublease, without change in this Lease or in the instrument setting forth the terms of such sublease); provided, however, that (i) the Successor Landlord shall not be bound by any payment made by Tenant of Rent for more than one (1) month in advance and (ii) in the case of a

Successor Landlord who succeeds to the interest of Landlord as a result of the enforcement of a deed of trust, mortgage or other security instrument, such Successor Landlord shall not be bound by (a) any amendment or modification of this Lease made after the date such deed of trust, mortgage, or other security instrument was executed and without the consent of the holder of such deed of trust, mortgage or other security instrument or (b) any work required to be done by Landlord pursuant to the terms of this Lease (excluding repair or maintenance obligations or obligations to restore in the event of casualty. This agreement of Tenant to attorn to a Successor Landlord shall survive any foreclosure sale, trustee's sale, conveyance in lieu thereof or termination of any underlying lease. Tenant shall upon demand at any time, before or after any such foreclosure or termination, execute, acknowledge, and deliver to the Successor Landlord any written instruments evidencing such attornment as such Successor Landlord may reasonably require. Notwithstanding anything herein to the contrary and as a condition to Tenant's obligation to attorn as aforesaid, Landlord shall obtain a SNDA from any existing owner, lessor, mortgagee, current or future lender or holder of any security instrument or encumbrance covering any portion of the Premises using such party's customary form of SNDA provided an Event of Default does not exist. Tenant may terminate this Lease if Landlord fails to obtain such SNDA from any such party within ninety (90) days from the date of this Lease or the date the Landlord executes the subject lease, deed of trust, mortgage or other security instrument or encumbrance (provided that Tenant has cooperated reasonably with efforts to obtain the SNDA) on thirty (30) days written notice to Landlord subject to the right of Landlord to void the termination by obtaining the SNDA within such thirty (30) day period. If this Lease is terminated in accord herewith, Landlord shall reimburse to Tenant upon such cancellation Tenant's reasonable expenses incurred in connection with this Lease.

**SECTION 40  
INTENTIONALLY OMITTED**

**SECTION 41  
INTENTIONALLY OMITTED**

**SECTION 42  
ENVIRONMENTAL INDEMNITY**

A. Tenant covenants and agrees to indemnify, protect, defend (by counsel reasonably satisfactory to Landlord), and save Landlord, its employees, agents, managers, members, and any successor thereof, harmless against and from any and all claims, losses, damages, liabilities, fines, penalties, charges, administrative and judicial proceedings and orders, judgments, remedial action requirements, enforcement actions of any kind, and all costs and expenses incurred in connection therewith (including, without limitation, remediation costs, environmental assessment costs, governmental compliance costs, and reasonable attorneys' and experts' fees and disbursements), known or unknown, foreseen or unforeseen, which may at any time be imposed upon, incurred by or asserted or awarded against Landlord, its employees, agents, managers, and members, or the Premises or any portion thereof and arising directly or indirectly, in whole or in part, from or out of any Hazardous Substances on, in, under or affecting all or any portion of the Premises that first become present on, in or under the Premises from and after the Commencement Date, including any such Hazardous Substances that first become present on, in or under the Premises from and after the Commencement Date and thereafter migrate off of the

Premises, except that the presence of any such Hazardous Substances or any increase in scope or exacerbation or migration of any such Hazardous Materials or migration is excluded from the forgoing indemnity if said presence or increase in scope or exacerbation arises out of Landlord's negligence or willful misconduct.

B. Landlord covenants and agrees to indemnify, protect, defend (by counsel reasonably satisfactory to Tenant), and save Tenant, its employees, agents, managers, and members, and any successor thereof, harmless against and from any and all claims, losses, damages, liabilities, fines, penalties, charges, administrative and judicial proceedings and orders, judgments, remedial action requirements, enforcement actions of any kind, and all costs and expenses incurred in connection therewith (including, without limitation, remediation costs, environmental assessment costs, governmental compliance costs, and reasonable attorneys' and experts' fees and disbursements), known or unknown, foreseen or unforeseen, which may at any time be imposed upon, incurred by or asserted or awarded against Tenant, its employees, agents, managers, and members, or the Premises or any portion thereof and arising directly or indirectly, in whole or in part, from or out of any Hazardous Substances on, in, under or affecting all or any portion of the Premises, (i) which exist as of the Commencement Date of this Lease, or (ii) which migrates onto the Premises hereafter from any other property owned by Landlord, except that any increase in scope or exacerbation of any such Hazardous Substances is excluded from the forgoing indemnity if said increase in scope or exacerbation arises out of Tenant's negligence or willful misconduct.

#### **SECTION 43 REPRESENTATIONS AND WARRANTIES OF LANDLORD**

Landlord hereby represents and warrants to Tenant as follows:

A. The execution and delivery of this Lease and the performance of all acts heretofore or hereafter made or taken or to be made or taken, pertaining to the Landlord or the Premises by the Landlord have been or will be duly authorized by all necessary company or other action, and the consummation of any such transactions with or on behalf of the Landlord will not constitute a breach or violation of, or a default under, the charter or by-laws or other governing documents of the Landlord or any agreement by which Landlord or Landlord's managing member is bound, nor constitute a violation of any law, administrative regulation or court decree;

B. The Premises is not subject to any pending or, to the best of Landlord's knowledge, threatened Taking;

C. The Property is not (and will not be) (i) subject to any right of first refusal or option to acquire in favor of any person or (ii) subject to any reversion of title;

D. Landlord has not received any notice of any pending proceedings to change, re-zone or down-zone the existing zoning classifications as to any portion of the Property and Landlord has no knowledge of the threat of any such action;

E. No assessments for public improvements have been made against the Property which remain unpaid and all bills and claims for labor performed and services and materials furnished



for the Property by or on behalf of Landlord are or will be timely paid in full and the Property is or will be timely free from mechanic's or materialman's liens;

F. The execution and delivery of this Lease, the incurrence of the obligations set forth in this Agreement, and the consummation of the transactions contemplated by this Agreement do not violate or conflict with any provision of any federal, state, municipal or local laws, ordinances, rules, regulations, requirements, or any order, judgment, decree, determination, or award of any court binding on either Landlord or Landlord's managing member, or their assets including the Premises; nor do they conflict with, result in a breach of, constitute a default under, result in the acceleration of, or create in any party the right to accelerate, terminate, modify, or cancel, or require any notice (which notice has not been furnished) under any agreement, contract, lease, license, instrument, or other arrangement to which either Landlord or Landlord's managing member is a party or by which either is bound or to which any of its assets is subject;

G. There is no delinquent tax or to Landlord's actual knowledge, any actual or threatened assessment of deficiency or additional tax or other governmental charge with respect to the Property. There are no tax liens on the Property other than liens for real property taxes that are not yet due and payable;

H. Landlord has or will obtain all building, zoning, and other applicable certificates, permits, and licenses necessary to permit the Rehabilitation, use and occupancy of the Premises and will complete the Rehabilitation in accordance with any conditions contained in the Certification Application;

I. The cost of Landlord's Work was or will be established on the basis of third party arm's length contracts;

J. At the time of commencement of construction, and as of the date hereof, the Land was and is properly zoned for the uses contemplated herein; and

K. All appropriate public utilities, including sanitary and storm sewers, water, gas and electricity, are currently or will be available to the Premises and will be operating properly for all units in the Premises at the time of first occupancy. The Premises has direct access to a public street or highway.

Under no circumstances shall Tenant have the right to terminate this Lease based upon a breach of any of the foregoing representations or warranties.

#### **SECTION 44**

#### **REPRESENTATIONS AND WARRANTIES OF TENANT**

Tenant hereby represents and warrants to Landlord as follows:

A. The execution and delivery of this Lease, the incurrence of the obligations set forth in this Agreement, and the consummation of the transactions contemplated by this Agreement do not violate or conflict with any provision of any federal, state, municipal or local laws, ordinances, rules, regulations, requirements, or any order, judgment, decree, determination, or award of any court binding on the Tenant or its managing member, or their assets including the

leasehold interest created hereby; nor do they conflict with, result in a breach of, constitute a default under, result in the acceleration of, or create in any party the right to accelerate, terminate, modify, or cancel, or require any notice (which notice has not been furnished) under any agreement, contract, lease, license, instrument, or other arrangement to which the Tenant or any its managing member is a party or by which it is bound or to which any of its assets is subject;

B. No consent, authorization, approval or permit of or from, or notice to or filing with, any governmental body or any party to any contract, agreement or instrument to which Tenant is a party or by which Tenant is bound, is required for the execution, delivery or compliance with the terms of the Lease by Tenant; and

C. In connection with the transactions contemplated hereby, Tenant has not retained or incurred any obligation to any broker. Tenant shall be solely responsible for and shall indemnify and hold Landlord harmless from any amounts payable to any broker with respect to such transactions arising from a contractual relationship or alleged contractual relationship between such broker and Tenant or otherwise arising from any dealing with Tenant.

D. No part of the business activities of any tenant or subtenant of the Premises conducted at the Premises will include a Tenant Excluded Business.

#### **SECTION 45 INTENTIONALLY OMITTED**

#### **SECTION 46 FURNISHING, FIXTURES AND EQUIPMENT**

A. Notwithstanding anything to the contrary herein, the Landlord and the Tenant agree that the initial furnishings, fixtures and equipment ("**FF&E**") for the Premises (other than such FF&E as may be provided by Subtenants) will be provided by Landlord. No additional rent beyond that set forth in **Section 3** hereof shall be payable by Tenant with respect to the FF&E provided by Landlord. Following the installation of the initial FF&E to be provided by Landlord, all replacement FF&E shall be provided by Tenant or Subtenants as and when needed.

B. It is anticipated that Tenant will provide allowances to Subtenants to purchase furniture, furnishings and equipment to be placed by Subtenants within the spaces in the Premises subleased by such Subtenants, the furniture, furnishings and equipment to be purchased by a Subtenant by utilization of the allowance provided by Tenant is referred to herein as "Subtenant FF&E"). Any Subtenant who is provided an allowance by Tenant to purchase Subtenant FF&E shall, to secure the performance of all of such Subtenant's covenants and obligations under its Sublease, enter into a security agreement with Tenant whereby such Subtenant grants to Tenant a security interest in the Subtenant FF&E of such Subtenant and all other personal property owned by such Subtenant and located within the space leased by such Subtenant (a "Subtenant Security Agreement"). As security for the payment and performance of Tenant's covenants and obligations under this Lease, Tenant hereby assigns to Landlord and grants to Landlord a security interest in Tenant's rights, title and interest in, to and under all Subtenant Security Agreements. Tenant hereby authorizes Landlord to file UCC financing

statements and continuation statements thereof to perfect its security interest in the Subtenant Security Agreements.

**SECTION 47  
INTENTIONALLY OMITTED**

**SECTION 48  
NON-RECOURSE**

Each member, manager, officer, director, agent and employee of the Tenant shall be exculpated from all personal liability for the obligations and liabilities of the Tenant under this Lease including, without limitation, all rental payments due and payable hereunder.

**SECTION 49  
LENDER REQUIREMENTS**

Wherever this Lease requires Tenant to comply with the requirements of any Mortgage or Lender, if any point in time there are two or more Lenders or Mortgages and there is a conflict between the requirements of such Lenders or Mortgages, the requirements of the Lender whose Mortgage has the highest lien priority shall control.

**SECTION 50  
NOTICE OF FACILITY**

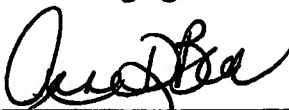
Pursuant to section 20116 of Part 201 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended ("Part 201"), Landlord is hereby providing express written notice to Tenant that the Premises is a "facility", as that term is defined in section 20101 of Part 201, because hazardous substances (as defined in Part 201) were detected at the Premises in concentrations exceeding generic residential clean-up criteria established by the Michigan Department of Environmental Quality.

**[Signatures appear on the following pages.]**

**IN WITNESS WHEREOF**, Landlord and Tenant have caused this Lease to be executed, under seal, as of the date and year first above written.

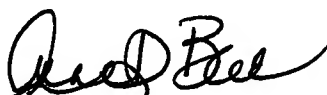
**ARGONAUT CAMPUS DEVELOPER LLC,**  
a Michigan limited liability company

By: CCS ARGONAUT HOLDINGS,  
INC., its Managing Member

By:   
Anne D. Beck  
Its Vice President

**ARGONAUT BUILDING MASTER  
TENANT LLC,** a Michigan limited liability  
company

By: CCS ARGONAUT HOLDINGS,  
INC., its Manager

By:   
Anne D. Beck  
Its Vice President

**EXHIBIT A**  
**LEGAL DESCRIPTION**

**Argonaut Parcel**

Land situated in the City of Detroit, County of Wayne, State of Michigan described as follows:

Lots 27 through 60 inclusive, including the vacated alley (16 feet wide) lying adjacent to said lots of "Leavitt's Subdivision of that part of fractional Section 31, Town 1 South, Range 12 East, bounded by Milwaukee and Woodward Avenues, Grand Trunk Railroad and rear line of private claims and west line of said fractional Section 31 also Lots 8 to 17 both inclusive, part of Block 5 of Henry Weber's Subdivision of part of fractional Section 31 and 36 Town 1 South, Range 11 and 12 East and part of the Baker and Forsyth Farms" City of Detroit, Wayne County, Michigan as recorded in Liber 9 of Plats on Page 17, Wayne County Records and being more particularly described as follows: Beginning at the Southwesterly corner of Milwaukee Avenue (60 feet wide) and Cass Avenue (80 feet wide), said point being also the Northeasterly corner of Lot 27 of said "Leavitt's Subdivision" (Liber 9, Plats, Page 17, Wayne County Records); proceeding thence from said point of beginning South 26 degrees 18 minutes 49 seconds East, along the Westerly line of said Cass Avenue, said line being also the Easterly line of Lot 27, the Easterly end of a vacated alley (16 feet wide) and the Easterly line of Lot 60 of said "Leavitt's Subdivision", a measured distance of 231.07 feet (recorded 231.00 feet) to the Northwesterly corner of Baltimore Avenue (60 feet wide) and said Cass Avenue, said point being also the Southeasterly corner of said Lot 60; thence South 63 degrees 11 minutes 25 seconds West, along the Northerly line of said Baltimore Avenue, said line being also the Southerly line of Lots 60 through 44 inclusive of said subdivision, a measured distance of 522.05 feet (recorded 521.66 feet) to the Northeasterly corner of Second Avenue (80 feet wide) and said Baltimore Avenue, said point being also Southwesterly corner of said Lot 44; thence North 26 degrees 18 minutes 05 seconds West, along the Easterly line of said Second Avenue, said line being also the Westerly line of Lot 44, the Westerly end of said vacated alley and the Westerly line of Lot 43 of said subdivision, a measured distance of 231.07 feet (recorded 231.00 feet) to the Southeasterly corner of said Milwaukee and Second Avenue, said point being also the Northwesterly corner of said Lot 43; thence North 63 degrees 11 minutes 25 seconds East, along the Southerly line of said Milwaukee Avenue, said line being also the Northerly line of Lots 43 through 27 inclusive, a measured distance of 522.00 feet (described 521.66 feet) to the point of beginning.

**Second and Baltimore Parcel**

Land situated in the City of Detroit, County of Wayne, State of Michigan, described as follows:

Lots 116 and 117 of "Leavitt's Subdivision of that part of fractional Section 31, Town 1 South, Range 12 East", City of Detroit, Wayne County, Michigan as recorded in Liber 9 of Plats on Page 17, Wayne County Records and being more particularly described as follows: Beginning at the Southeasterly corner of Lot 117 of said "Leavitt's Subdivision" (Liber 9, Plats, Page 17, Wayne County Records), said point being also the Northwesterly corner of Baltimore Avenue (60 feet wide) and Second Avenue (80 feet wide); proceeding thence from said point of beginning South 63 degrees 11 minutes 00 seconds West, along the Northerly line of said Baltimore Avenue, said line being also the Southerly line of Lots 117 and 116 of said subdivision, a measured distance of 72.31 feet (recorded 72.15 feet) to the Southwesterly corner of said Lot 116; thence North 26 degrees 13 minutes 50 seconds West, along the Westerly line of

said Lot 116, a distance of 107.50 feet to the Northwesterly corner of said lot; thence North 63 degrees 11 minutes 00 seconds East, along the Southerly line of a public alley (16 feet wide), said line being also the Northerly line of Lots 116 and 117 of said subdivision, a measured distance of 72.21 feet (recorded 72.15 feet) to the Northeasterly corner of said Lot 117; thence South 26 degrees 16 minutes 46 seconds East, along the Westerly line of said Second Avenue, said line being also the Easterly line of said Lot 117, a distance of 107.50 feet to the point of beginning.

**EXHIBIT B**

<b><u>LEASE YEAR</u></b>	<b><u>MONTHLY INSTALLMENT OF BASE RENT</u></b>
2009-2028	\$383,333.33





## **SUBLEASE GUARANTY**

In consideration of and as an inducement to **ARGONAUT BUILDING MASTER TENANT LLC** ("Sublandlord") to enter into that certain Sublease with **TEF SIX, LLC** ("Subtenant") dated as of September 30, 2008; whereby Sublandlord has subleased to Subtenant Suites 101, 102, 201, 301 and 401 located within the building commonly known as the Argonaut Building, Detroit, Michigan ("Sublease"), **THOMPSON EDUCATIONAL FOUNDATION**, a Michigan nonprofit corporation, the sole member of Subtenant ("Guarantor"), does, except as otherwise provided below, hereby absolutely, unconditionally, and irrevocably guarantee to Sublandlord the full, faithful and timely payment of all rent and all other sums required to be paid by Subtenant under the Sublease and the full, faithful and timely performance and observance of all of the other covenants and obligations of Subtenant under the Sublease. This is an absolute, irrevocable, unconditional, independent, present and continuing guaranty of payment and performance and not of collection and the obligations hereunder of Guarantor are primary and not secondary and are independent of the obligations of Subtenant. Notwithstanding anything to the contrary contained herein, Guarantor shall not be liable under this Guaranty for the failure of Subtenant to perform any obligation under the Sublease if Creative Urban Education, Inc. ("CUE") is responsible for performing such obligation under that certain Sublease dated September 30, 2008 between Subtenant, as sublandlord, and CUE, as subtenant (the "CUE Sublease"), and CUE, in breach of the CUE Sublease, fails to perform such obligation.

(b) Guarantor covenants and agrees that Sublandlord may proceed directly against Guarantor without first proceeding or making claim or exhausting any remedy against Subtenant, or pursuing any particular remedy or remedies available to Sublandlord. Sublandlord may join Guarantor in any action or proceeding commenced by Sublandlord against Subtenant in connection with and based upon any covenants or obligations under the Sublease.

(c) Guarantor consents to forbearances, indulgences, waivers, and extensions of time being afforded to Subtenant by Sublandlord. No act or omission on the part of Sublandlord shall affect or modify the obligations and liabilities hereunder of Guarantor.

(d) This Guaranty shall remain and continue in full force and effect notwithstanding (i) any renewal, extension, modification or amendment of the Sublease or (ii) any assignment of the interest of Subtenant in the Sublease; and Guarantor waives notice of any of the foregoing. The liability hereunder of Guarantor is based upon the obligations set forth in the Sublease, as the Sublease may be renewed, extended, modified, amended or assigned from time to time. Guarantor further waives all notice of acceptance of this Guaranty, presentment, protest, notice of protest, demands for performance, any notice of any breach, default, or nonperformance by Subtenant of its obligations, covenants or warranties under the Sublease, and any and all notices of non-performance which might otherwise be a condition precedent to the liability of Guarantor under this Guaranty.

(e) The obligations hereunder of Guarantor shall remain fully binding notwithstanding that Sublandlord may have waived one or more defaults by Subtenant or extended the time of performance under the Sublease by Subtenant or released, returned, misapplied, or failed to perfect or continue perfection of, or assigned, absolutely or as collateral,

any security interest in any collateral given to Sublandlord as additional security (including other guaranties) or released Subtenant from the performance of any or all of its obligations under the Sublease.

(f) Guarantor agrees to pay all of Sublandlord's costs and expenses, including but not limited to attorney's fees, incurred in enforcing this Guaranty. This Guaranty shall be governed by and construed according to the laws of the State of Michigan.

(g) Neither Guarantor's obligations under this Guaranty nor any remedy for the enforcement thereof shall be impaired, modified, changed, released or limited in any manner whatsoever by the institution by or against Subtenant or any other person guaranteeing the Sublease of bankruptcy, reorganization, readjustment, receivership or insolvency proceedings of any nature, or the rejection of the Sublease in any such proceedings, or otherwise.

(h) This Guaranty shall be binding upon Guarantor and its successors and assigns and shall inure to the benefit of Sublandlord and its successors and assigns.

In the Presence of:

**GUARANTOR:**

**THOMPSON EDUCATIONAL FOUNDATION,**  
a Michigan nonprofit corporation

Cathy Egejer  
Cathy Egejer  
John G. Cleary  
John G. Cleary

By: [Signature]  
Its: PRESIDENT

STATE OF MICHIGAN  
COUNTY OF WAYNE

The foregoing Guaranty was acknowledged before me this 29 day of SEPT, 2008 by Robert Thompson, the PRESIDENT of THOMPSON EDUCATIONAL FOUNDATION, a Michigan nonprofit corporation, on behalf of the corporation.

[Signature]  
Andrew J. [unclear] Notary Public  
LANSING County, MI  
My commission expires: 4.1.2015  
Acting in WAYNE County, MI



## **SUBLEASE SUBORDINATION AGREEMENT**

This Agreement is dated as of September 30, 2008, among **Argonaut Building Master Tenant LLC**, a Michigan limited liability company, whose address is c/o College for Creative Studies, 201 E. Kirby, Detroit, Michigan 48202-4034 (the "Sublandlord") **TEF-SIX, LLC**, a Michigan limited liability company, whose address is c/o Thompson Educational Foundation, P.O. Box 6349, Plymouth, Michigan 48170 (the "Subtenant"); and **JPMorgan Chase Bank, N.A.**, a national banking association, with offices at 611 Woodward, Detroit, Michigan 48226 (the "Bank").

(A) Argonaut Campus Developer LLC (the "Master Landlord") is the owner in fee of real property described in the attached Exhibit A (the "Premises").

(B) The Sublandlord, as tenant, and the Master Landlord as Landlord, entered into a Master Lease dated July 24, 2008 (as amended, extended, and/or renewed from time to time, the "Master Lease"), covering the Premises.

(C) The Sublandlord and Subtenant entered into a Sublease dated September 30, 2008 (as amended, extended, and/or renewed from time to time, the "Sublease"), covering that portion of the Premises described on Exhibit A-1 (the "Subleased Premises").

(D) The Master Landlord has applied to the Bank for and the Bank has given to Master Landlord a loan evidenced and secured by, among other things, a Construction Loan and Security Agreement dated July 24, 2008 (the "Loan Agreement") and a Mortgage dated July 24, 2008 covering the Premises (with all extensions, renewals, modifications, and substitutions, the "Mortgage").

(E) The Subtenant desires to be assured of continued occupancy of the Leased Premises under the terms of the Sublease, but subject to the terms of the Loan Agreement and Mortgage.

Therefore, the parties agree as follows:

1. The Sublease (including any option to purchase the Premises or the Subleased Premises contained in the Sublease, as well as any rights of first refusal) is and shall at all times continue to be subordinate in every respect to the Loan Agreement and Mortgage, including but not limited to, subject to the terms of paragraph 9 below, the right of the Bank to receive and to apply insurance proceeds and condemnation awards relating to the Premises and/or the

Sublease  
TEF-Six  
9/24/08

Subleased Premises as provided in the Loan Agreement; provided, however, that the Bank may at any time, in its sole discretion, declare the Sublease to be superior to the lien, provisions, and operation of the Loan Agreement and Mortgage. If there is any conflict between any provision of the Sublease and any provision of the Loan Agreement or Mortgage, the provision in the Loan Agreement or Mortgage, as the case may be, shall control, subject to the terms of this agreement.

2. Notwithstanding the foregoing, if the Subtenant is not in default under the Sublease or this agreement and if no event has occurred that would entitle the Sublandlord to terminate the Sublease, then (a) the Bank will not name or join the Subtenant in any foreclosure, exercise of a power of sale, sale by advertisement, or any other proceeding to enforce the Mortgage, unless the Bank must so name or join the Subtenant in order to perfect the foreclosure, the exercise of the power of sale, the sale by advertisement, or its rights under any other proceeding; (b) the Bank's enforcement of the Mortgage will not terminate the Sublease or disturb the Subtenant's use or possession of the Subleased Premises; and (c) the leasehold estate granted the Subtenant under the Sublease will not be affected in any manner by any foreclosure, exercise of a power of sale, sale by advertisement, or any other proceeding to enforce the Mortgage. Bank shall, if the Sublease was in effect and no Default (as defined in the Sublease) existed as of the date the Master Sublease terminated which is not waived by the Bank, upon Subtenant's request, and Subtenant shall in any event upon request of the Bank, enter into a new sublease of the Subleased Premises (the "New Sublease"), as lessor, with Subtenant, as lessee, upon, except as otherwise provided below, the same terms and conditions of the Sublease that would have been applicable to the unexpired term of the Sublease but for such termination of the Master Sublease or Subtenant's right to possession of the Subleased Premises with (i) the commencement date of the New Sublease to be the day immediately following the date that the Master Sublease is terminated or Subtenant's right to possession of the Subleased Premises is terminated, (ii) the term of the New Sublease to be equal to what would have been the unexpired term of the Sublease but for such termination of the Master Sublease or Subtenant's right to possession of the Subleased Premises. If the Bank fails to execute any such New Sublease, then the Bank shall nevertheless be deemed to have entered into the New Sublease with Subtenant and the Sublease, as modified by this paragraph, shall constitute a written instrument of sublease. If Subtenant's right to possession of the Subleased Premises is terminated without a termination of the Master Sublease and a New Sublease is entered into or deemed entered into pursuant to this paragraph, the Sublease shall be deemed to have terminated as of the commencement of the term of the New Sublease.

Notwithstanding the foregoing, the person acquiring the interest of the Sublandlord as a result of foreclosure, exercise of a power of sale, sale by advertisement, or any other proceeding to enforce the Mortgage, or by deed in lieu of foreclosure, including the Bank, and the successors and assigns of that purchaser or transferee (each, including the Bank, a "Purchaser"), shall not be:

(a) liable for any breach of the Sublease by, or any act or omission of, the Sublandlord or any prior Sublandlord of the Subleased Premises;

(b) subject to any claims or defenses of whatever nature that the Subtenant may have against the Sublandlord or any prior lessor of the Subleased Premises, or subject to any offsets, abatements, or deductions against rent that the Subtenant may have against the Sublandlord or any prior lessor of the Subleased Premises;

(c) bound by any rent or additional rent that the Subtenant may have paid to the Sublandlord or any prior lessor of the Subleased Premises more than one (1) month in advance;

(d) bound by any security deposit that the Subtenant may have paid to the Sublandlord or any prior lessor of the Subleased Premises, unless that deposit is held in an escrow account available to the Purchaser;

(e) bound by any amendment, modification, renewal, or extension of the Sublease that is made after the date of this agreement without the written consent of the Bank;

(f) bound by any assignment, sublease, mortgage, encumbrance, or any other disposition or transfer of all or any part of the Subtenant's interest under the Sublease or in the Subleased Premises that is made after the date of this agreement without the written consent of the Bank;

(g) bound by any provision in the Sublease obligating the Sublandlord (i) to erect or complete any building, (ii) to perform any construction work, (iii) to make any improvements whatsoever to the Premises or the Subleased Premises, or (iv) to provide funds, allowances, concessions, or rental abatements to the Subtenant for any of the purposes described in clauses (i), (ii), or (iii), unless those obligations are expressly assumed by the Purchaser;

(h) responsible for providing (or liable for not providing) any additional space for which the Subtenant has any option or right under the Sublease, unless the Purchaser expressly elects to provide same. The Subtenant agrees that it shall have no right to cancel or terminate the Sublease, abate rent, or assert any claim for damages or other monetary relief against the Purchaser as a result of the Purchaser's failure to provide any such space;

(i) liable under any indemnity provision of whatever nature contained in the Sublease, including, but not limited to, any environmental indemnification;

(j) liable for or have any responsibility related to any hazardous materials or other environmental conditions or contamination that existed on or under the Premises or the Subleased Premises prior to the Purchaser succeeding to the interest of the Sublandlord under the Sublease; or

(k) bound by any surrender, cancellation, or termination of the Sublease or the Subtenant's interest in the Subleased Premises, whether in whole or in part, unless either (i) the Bank has given its prior written consent thereto, or (ii) the surrender, cancellation, or termination is effected unilaterally by the Subtenant under a specific term of the Sublease; provided, however, that if the Subtenant's right to cancel, surrender, or terminate the Sublease and/or its interest in the Subleased Premises arises because of a default by the Sublandlord under the

Sublease, the Subtenant shall not terminate, cancel, or surrender the Sublease and/or its interest in the Subleased Premises because of that default unless (1) the Sublandlord is in default under the Sublease beyond any cure period provided in the Sublease; (2) the Subtenant has given the Bank prior written notice of the default as provided in paragraph 7 of this agreement; and (3) the cure period provided to the Bank in paragraph 7 has expired, and the Bank has not cured the default within that time.

3. If the interest of the Sublandlord under the Sublease is transferred by foreclosure, exercise of a power of sale, sale by advertisement, or any other proceedings for enforcement of the Mortgage, or by deed in lieu of foreclosure, the Subtenant will be bound to the Purchaser under the terms of the Sublease for the balance of the term remaining thereunder, together with any extensions or renewals, with the same effect as if the Purchaser were the lessor under the Sublease, and the Subtenant agrees to attorn to the Purchaser (including the Bank if it is the Purchaser) as its new landlord, this attornment to be effective and self-operative without the execution of any further instruments. Thereafter, the Sublease will continue in full force and effect as a direct lease between the Subtenant and the Purchaser under the terms and conditions set forth in the Sublease, except as those terms and conditions are modified by this agreement. Notwithstanding anything to the contrary in the Sublease, and subject to such other limitations as may be described in this agreement (including the exculpatory provisions of paragraph 4 below), the Bank or other Purchaser is responsible for performing only those covenants and obligations under the Sublease accruing after the Bank or other Purchaser (a) has acquired the Sublandlord's interest in the Premises and the Subleased Premises, and (b) has obtained possession and control of the Premises and the Subleased Premises. If the Bank becomes the Purchaser and then conveys its interest in the Premises to a third party, the Bank shall be released from all duties and obligations under the Sublease, whenever arising, after it has so conveyed its interest.

4. Notwithstanding any provision of this agreement or the Sublease, neither the Bank nor any other Purchaser (as well as any partner, shareholder, director, officer, member, manager, or employee of any Purchaser) has or will have any personal liability to the Subtenant, directly or indirectly, under or in connection with the Sublease or this agreement, and the Subtenant irrevocably waives and releases all such personal liability. The Subtenant will look solely to the Premises, and not to any other assets or property of the Bank or any other Purchaser, for the recovery of any damages or other monetary relief from the Bank or any other Purchaser (including any partner, shareholder, director, officer, member, manager, or employee of any Purchaser) relating to or arising out of any violation of, or failure to perform as required under, the Sublease or this agreement.

5. The Subtenant and the Sublandlord each certify and promise to the Bank that:

(a) As of the date of this agreement, the Sublease is in full force and effect and is unmodified (by "side letter" or otherwise) except as indicated by amendments attached to the Sublease.

(b) As of the date of this agreement, the Subtenant has not assigned, mortgaged, sublet, licensed, encumbered, or otherwise transferred or disposed of all or any part of its interest under the Sublease, except as follows:

(c) No rent has been paid or will be paid more than one (1) month in advance of its due date.

(d) As of the date of this agreement, the Subtenant has no charge, lien, or claim of offset under the Sublease or otherwise against rents or other charges due under the Sublease.

(e) Without the prior written consent of the Bank, (i) the Subtenant will not assign, sublet, license, mortgage, encumber, or otherwise transfer or dispose of all or any portion of its interest under the Sublease or in the Subleased Premises; (ii) neither the Sublease nor the Subtenant's interest in the Subleased Premises will be surrendered, cancelled, or terminated, unless that surrender, cancellation, or termination is effected unilaterally by the Subtenant under a specific term of the Sublease, subject to the terms of paragraph 7 of this agreement; and (iii) the Sublease will not be amended or modified (by "side letter" or otherwise), except that rents payable under the Sublease may be increased without the Bank's written consent.

(f) As of the date of this agreement, neither the Subtenant nor the Sublandlord is in default under the Sublease, nor do circumstances exist that with the passage of time, the giving of notice, or both, would constitute such a default.

(g) The Subtenant has no notice of prior assignment, hypothecation, or pledge of rents of the Sublease.

(h) As of the date of this agreement, there are no actions pending against the Subtenant, whether voluntary or involuntary, under the bankruptcy laws of the United States.

(i) The contingencies to effectiveness of the Sublease set forth in Section 3.4 of the Sublease have been satisfied.

On the Sublease Commencement Date, Sublandlord and Subtenant will execute and deliver to Bank the Commencement Date Agreement in the form of Exhibit B attached hereto.

**6. Certificates.** The Subtenant agrees at any time and from time to time to execute, deliver and acknowledge to the Sublandlord, to the Bank, or to any third party designated by the Sublandlord or by the Bank, within fifteen (15) days following the Sublandlord's or the Bank's written request therefor, (a) a statement in writing certifying that (i) the Sublease is in full force and effect, (ii) to Subtenant's actual knowledge, the Sublandlord is not in default thereunder (or specifying any defaults by the Sublandlord that the Subtenant alleges), (iii) rent has not been prepaid more than one (1) month in advance and (iv) any further information about the Sublease or the Subleased Premises that the Sublandlord, the Bank, or said third party may reasonably request; (b) a statement in writing that the Subtenant will recognize any new Sublandlord the assignee of the Sublandlord's rights under the Sublease; and (c) a statement in writing acknowledging or denying receipt of notice of any conditional or security assignment of the Sublease to any third party. The Subtenant understands that the Bank and/or prospective purchasers, other mortgagees or lessors of the Premises, or any part thereof, including the Subleased Premises, will rely on such certificates. The Subtenant's obligation to deliver such



certificates within fifteen (15) days, as described above, is a material obligation of the Subtenant hereunder and under the Sublease.

7. **Notice of Default Under Sublease.** The Subtenant will give the Bank prompt written notice (a "Default Notice") of any default by the Sublandlord under the Sublease if the default is such as to give the Subtenant a right (a) either immediately or after a period of time, to terminate, cancel, or surrender the Sublease and/or its interest in the Subleased Premises, (b) to reduce the rent payable under the Sublease, (c) to credit or set-off any amounts against future rents payable under the Sublease, or (d) to recover damages or other monetary relief from the Sublandlord. The Subtenant will not exercise any right to terminate, cancel, or surrender the Sublease and/or its interest in the Subleased Premises, sue for damages or other monetary relief, or seek or assert any other remedy (including abatement of, or set-off or credit against, rent payable under the Sublease) until:

(i) it has given the Bank the opportunity as provided in the Sublease, if any, plus one hundred twenty (120) days, plus

(ii) such reasonable period of time as is necessary thereafter to remedy the default identified in the Default Notice if the Bank has commenced and is diligently pursuing such remedy.

Notwithstanding the foregoing, the Subtenant agrees that the Bank shall have no obligation to remedy any such Sublandlord default. The Subtenant will give the same notice and opportunity to cure to any successor to or assignee of the Bank's interest in the Mortgage if, before any default by the Sublandlord under the Sublease, the successor or assignee gives written notice to the Subtenant of its acquisition of the Bank's interest in the Mortgage and designates the address to which the notice is to be sent. Notwithstanding the foregoing, neither the Bank nor any successor or assignee has any obligation to cure any default by the Sublandlord under the Sublease.

8. **Modification of Obligations or Loan Documents.** From time to time, the Bank may, without notice to or consent of the Subtenant and without impairing or affecting this agreement, do any of the following as to any of the Obligations or Loan Documents (as defined in the Loan Agreement): (a) amend, modify, extend, or renew any or all of the Obligations or Loan Documents; (b) change the rate of interest being charged on any or all of the Obligations or Loan Documents; (c) release the Master Landlord, any guarantor, any surety or any other third party from liability on any or all of the Obligations or Loan Documents; (d) compromise or settle the terms of any or all of the Obligations or Loan Documents; (e) forbear or agree to forbear from taking any action against the Master Landlord, any guarantor, any surety or any other party in regard to any or all of the Obligations; or (f) substitute, release, exchange, or take any other action in regard to any collateral, including the Premises, for any or all of the Obligations or Loan Documents.

9. **Condemnation Awards/Insurance Proceeds.** Notwithstanding any other term of this agreement, if all or any part of the Subleased Premises are damaged by casualty or taken as part of condemnation proceedings, the Bank will apply all Net Casualty Proceeds and Net

Condemnation Proceeds (as such terms are defined in the Loan Agreement; herein such terms are collectively, "Proceeds") for restoration of the Subleased Premises, subject to satisfaction of the following conditions as of each date that any Proceeds are to be disbursed for such restoration:

(a) The Sublease is in effect and has not been terminated by either the Sublandlord or the Subtenant, nor has it been modified without the Bank's consent in a way that is unsatisfactory to the Bank.

(b) The term of the Sublease remaining after restoration, in the Bank's reasonable opinion, is of a sufficient length to warrant economically the restoration of the Subleased Premises.

(c) The Master Landlord is not in default under any of the Loan Documents beyond any applicable cure period.

(d) The Subtenant is not in default under the Sublease beyond any applicable cure period.

(e) In the Bank's opinion, the Proceeds are sufficient to fully restore the Premises. If the Proceeds are not sufficient in the Bank's opinion to fully restore the Premises, the Master Landlord, Sublandlord or Subtenant must, within twenty (20) days after the Bank gives Master Landlord, Sublandlord and Subtenant written notice of its opinion, deposit funds with the Bank that, when added to the existing Proceeds in the Bank's possession, will be sufficient, in the Bank's opinion, to fully restore the Premises. These additional funds will be deemed Proceeds upon being deposited with the Bank and may be disbursed before any other Proceeds are disbursed.

(f) The Bank has approved in writing the plans and specifications for the restoration work on the Subleased Premises.

(g) The Master Landlord, Sublandlord and the Subtenant have each given the Bank authority, in form and substance reasonably acceptable to the Bank, (i) to supervise, together with the Subtenant, restoration of the Subleased Premises, and (ii) to disburse Proceeds (including any funds deposited from time to time with the Bank as provided in (e) above) according to the Bank's customary practices and procedures for construction loans for similar projects, including practices and procedures relating to title insurance and compliance with construction-lien laws.

(h) If portions of the Premises besides the Subleased Premises have also been damaged or affected by the casualty or taking, the project as a whole must, in the Bank's opinion, remain economically viable.

If any of the foregoing conditions is not met as of any date on which Proceeds are to be disbursed, then the Bank's obligations under this paragraph cease and the Bank may thereafter apply any Proceeds then or thereafter in its possession as provided in the Loan Agreement or any other agreement relating to any of the Obligations. Notwithstanding the foregoing, the Bank's

liability for restoration of the Subleased Premises after a casualty or taking is limited to Proceeds that are actually in the Bank's possession and control. In addition, the Bank's obligations under this paragraph are personal to the Subtenant; if the Subtenant terminates, surrenders, cancels, or assigns its interest under the Sublease, or if any third party succeeds to the Subtenant's rights under the Sublease, whether by operation of law or otherwise, the Bank has no obligations under this paragraph, and the Bank may thereafter exercise its rights in regard to any Proceeds as described in the Loan Agreement without any regard to the terms of this paragraph.

If, at the time the Bank would otherwise be obligated to disburse Proceeds pursuant to this paragraph 9, (i) a default under the Loan Agreement, other Loan Documents, or Sublease exists but the applicable cure period therefore has not yet expired or (ii) circumstances exist that with the passage of time, the giving of notice, or both, would constitute a default under the Loan Agreement, other Loan Documents or Sublease, the Bank may refuse to disburse such proceeds until such time as such default has been cured or such circumstances no longer exist; provided, however, that nothing contained in this sentence shall prevent the Bank from applying any Proceeds as provided in the Loan Agreement or any other agreement relating to any of the Obligations if any of the conditions set forth in (a) through (h) is not satisfied (including without limitation, if Landlord or Subtenant fails to cure a default before expiration of the applicable cure period pursuant to subparagraph (c) or (d) above after the Bank has refused to disburse Proceeds as provided in this paragraph).

**10. Conflicts.** If there is any conflict between any provision of this agreement and any provision of the Sublease, the provision in this agreement controls.

**11. Authority.** The person(s) signing this agreement on behalf of the Subtenant represent(s) to the Sublandlord and to the Bank that he/ she/they has/have authority to do so on behalf of the Subtenant.

**12. Binding Effect.** This agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. The Subtenant and the Sublandlord agree that the Bank may at any time sell or transfer all or any part of the Obligations to one or more purchasers, whether or not related to the Bank.

**13. Recording.** The parties hereto agree that this agreement may be recorded in the public records of Wayne County, Michigan.

**14. Captions.** Captions in this agreement are for convenience of reference only and do not limit the provisions of this agreement.

**15. Time.** Time is of the essence in this agreement.

**16. Information Waiver.** The Subtenant and the Sublandlord agree that the Bank may provide any information or knowledge the Bank may have about the Sublandlord, the Subtenant or any matter relating to this agreement or the Loan Documents to JPMorgan Chase & Co., or any of its subsidiaries or affiliates or their successors or to any one or more purchasers or potential purchasers of all or any part of the Obligations and/or any Loan Documents.

**17. Governing Law and Venue.** This agreement shall be governed by and construed in accordance with the laws of the State of Michigan (without giving effect to its laws of conflicts). The Sublandlord and the Subtenant agree that any legal action or proceeding with respect to any of their obligations under this agreement may be brought by the Bank in any state or federal court located in the State of Michigan, as the Bank in its sole discretion may elect. By the execution and delivery of this agreement, the Sublandlord and the Subtenant submit to and accept, for themselves and in respect of their property, generally and unconditionally, the non-exclusive jurisdiction of those courts. The Sublandlord and the Subtenant waive any claim that the State of Michigan is not a convenient forum or the proper venue for any such suit, action or proceeding.

**18. Notices.** All notices, requests and demands hereunder shall be in writing and deemed to have been given or made: if delivered in person, immediately upon delivery; if by facsimile transmission, immediately upon sending and upon confirmation of receipt; if by nationally recognized overnight courier service with instructions to deliver the next business day, one (1) business day after sending; and if by certified mail, return receipt requested, five (5) days after mailing. All notices, requests and demands upon the parties are to be given to the following addresses (or to such other address as any party may designate by notice in accordance with this Section):

If to Sublandlord: Argonaut Building Master Tenant, LLC  
c/o College for Creative Studies  
201 E. Kirby  
Detroit, Michigan 48202-4034  
Attention: Anne Beck  
Vice President for Administration and Finance  
Telecopy No.: (313) 871-5580

If to Subtenant: TEF-Six, LLC  
c/o Thompson Educational Foundation  
225 North Sheldon Road  
Plymouth, Michigan 48170  
Attention: John G. Cleary  
Telecopy No.: ( ) -

If to Bank: JPMorgan Chase Bank, N.A.  
611 Woodward Avenue  
Detroit, Michigan 48226  
Attention: Specialized Industries  
Telecopy No.: (313) 256-0353

19. **WAIVER OF SPECIAL DAMAGES.** THE SUBLANDLORD AND THE SUBTENANT WAIVE, TO THE MAXIMUM EXTENT NOT PROHIBITED BY LAW, ANY RIGHT EITHER OF THEM MAY HAVE TO CLAIM OR RECOVER FROM THE BANK IN ANY LEGAL ACTION OR PROCEEDING ANY SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES.

20. **JURY WAIVER.** THE SUBLANDLORD, THE SUBTENANT AND THE BANK HEREBY VOLUNTARILY, KNOWINGLY, IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE (WHETHER BASED ON CONTRACT, TORT, OR OTHERWISE) AMONG ANY OF THE SUBLANDLORD, THE SUBTENANT AND/OR THE BANK ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT. THIS PROVISION IS A MATERIAL INDUCEMENT TO THE BANK TO PROVIDE OR CONTINUE PROVIDING THE OBLIGATIONS.

EXECUTED by each party on the date indicated below its signature, but effective as of the date first written above, which the Bank is authorized to insert.

**SUBTENANT:**

TEF-SIX, LLC

By:  \_\_\_\_\_

Its: MANAGER \_\_\_\_\_

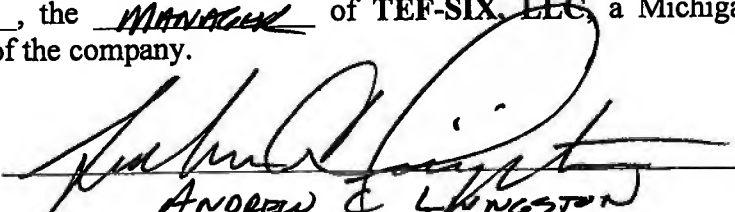
Dated: September 29, 2008

**ACKNOWLEDGMENT OF SUBTENANT**

State of Michigan

County of WAYNE

The foregoing instrument was acknowledged before me on September 29, 2008, by ROBERT THOMPSON, the MANAGER of TEF-SIX, LLC, a Michigan limited liability company, on behalf of the company.

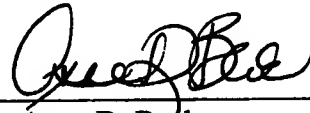
  
\_\_\_\_\_  
ANDREW C. LIVINGSTON  
Notary Public, State of Michigan, County of WAYNE  
My commission expires 4.1.2015  
Acting in the County of WAYNE

(Signatures continued on next page.)

**SUBLANDLORD:**

**ARGONAUT BUILDING MASTER  
TENANT LLC**

By: CCS Argonaut Holdings, Inc.,  
its Organizer and Manager

By:   
Anne D. Beck  
Its: Vice President

Dated: September 30, 2008

**ACKNOWLEDGMENT OF SUBLANDLORD**

State of Michigan  
County of Wayne

The foregoing instrument was acknowledged before me on September 30, 2008, by Anne D. Beck, the Vice President of CCS Argonaut Holdings, Inc., a Michigan corporation, the Organizer and Manager of ARGONAUT BUILDING MASTER TENANT, LLC, a Michigan limited liability company, on behalf of the corporation and company.



Notary Public, State of Michigan, County of ~~Wayne~~ Macomb  
Acting in the County of Wayne  
My commission expires Nov. 17, 2010

(Signatures continued on the following page.)

**Bank:**

**JPMorgan Chase Bank, N.A.**

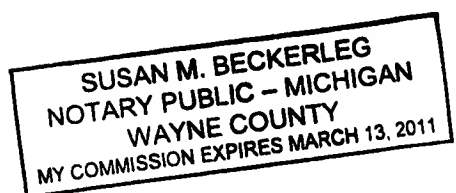
By: Amy J. Bourgeois  
Amy J. Bourgeois  
Its: Vice President

Dated: July 30 2008

**ACKNOWLEDGMENT OF BANK**

State of Michigan  
County of Wayne

The foregoing instrument was acknowledged before me on September 30, 2008, by Amy J. Bourgeois, a Vice President of JPMorgan Chase Bank, N.A., a national banking association, on behalf of the association.



Susan M. Beckerleg  
Notary Public, State of Michigan, County of Wayne  
My commission expires 3-13-2011  
Acting in the County of Wayne

**Drafted By:**

Stephen E. Dawson, Esq.  
Dickinson Wright PLLC  
38525 Woodward Avenue  
Suite 2000  
Bloomfield Hills, MI 48304

**When Recorded, Return To:**

Stephen E. Dawson, Esq.  
Dickinson Wright PLLC  
38525 Woodward Avenue, Suite 2000  
Bloomfield Hills, MI 48304

BLOOMFIELD 7-4171 929146v4

## **EXHIBIT A**

### **PREMISES**

#### **ARGONAUT PARCEL**

Land situated in the City of Detroit, County of Wayne, State of Michigan described as follows:

##### **Parcel A:**

Lots 27 through 30 inclusive, including  $\frac{1}{2}$  of the vacated alley along the rear thereof; Lots 31 through 49, inclusive, the West 10 feet of Lot 50, Lots 51 and 52, the West 5 feet and the East 15 feet of Lot 53, Lots 54 through 60 inclusive, including the  $\frac{1}{2}$  of vacated alley along the rear thereof, except the East 5 feet of Lot 56, and also except the West 15 feet of Lot 57 deeded to the City of Detroit for alley purposes, LEAVITTS' SUBDIVISION, as recorded in Liber 9, Page 17 of Plats, Wayne County Records.

##### **Parcel B:**

The East 20 feet of Lot 50, LEAVITT'S SUBDIVISION, as recorded in Liber 9, Page 17 of Plats, Wayne County Records.

##### **Parcel C:**

The East 5 feet of Lot 56 and the West 15 feet of Lot 57, LEAVITT'S SUBDIVISION, as recorded in Liber 9, Page 17 of Plats, Wayne County Records.

##### **Combined Parcels A, B and C:**

Lots 27 through 60 inclusive, including vacated alley (16 feet wide) lying adjacent to said lots in LEAVITT'S SUBDIVISION, bounded by Milwaukee and Woodward Avenues, Grand Trunk Railroad and the rear line of private claims and West line of said fractional Section 31, also Lots 8 through 17 both inclusive, part of Block 5 of HENRY WEBER'S SUBDIVISION, and part of the BAKER AND FORSYTHE FARMS, City of Detroit, Wayne County, Michigan, as recorded in Liber 9, Page 17 of Plats, Wayne County Records, and being more particularly described as follows: Beginning at the Southwesterly corner of Milwaukee Avenue (60 feet wide) and Cass Avenue (80 feet wide), said point being also the Northeasterly corner of Lot 27 of said LEAVITT'S SUBDIVISION, as recorded in Liber 9, Page 17 of Plats, Wayne County Records; proceeding thence from said point of beginning South 26 degrees 18 minutes 49 seconds East along the Westerly line of said Cass Avenue, said line being also the Easterly line of Lot 27, the Easterly end of a vacated alley (16 feet wide) and the Easterly line of Lot 60 of said LEAVITT'S SUBDIVISION, a measured distance of 231.07 feet (recorded 231.00 feet) to the Northwesterly corner of Baltimore Avenue (60 feet wide) and said Cass Avenue, said point being also the Southeasterly corner of said Lot 60; thence South 63 degrees 11 minutes 25 seconds West, along the Northerly line of said Baltimore Avenue, said line being also the Southerly line of Lots 60 through 44 inclusive, of said subdivision, a measured distance of 522.05 feet (recorded 521.66



feet) to the Northeasterly corner of Second Avenue (80 feet wide) and said Baltimore Avenue, said point being also Southwesterly corner of said Lot 44; thence North 26 degrees 18 minutes 05 seconds West, along the Easterly line of said Second Avenue, said line being also the Westerly line of Lot 44, the Westerly end of said vacated alley and the Westerly line of Lot 43 of said subdivision, a measured distance of 231.07 feet (recorded 231.00 feet) to the Southeasterly corner of said Milwaukee and Second Avenue, said point being also the Northwesterly corner of said Lot 43; thence North 63 degrees 11 minutes 25 seconds East, along the Southerly line of said Milwaukee Avenue, said line being also the Northerly line of Lots 43 through 27 inclusive, a measured distance of 522.00 feet (described 521.66 feet) to the point of beginning.

**TOGETHER WITH:**

Easement Agreement as recorded in Liber 31711, Page 834, as amended by Amendment to Easement Agreement dated February 3, 2004, and recorded April 2, 2004 in Liber 40377, Page 1260, Wayne County Records.

**SECOND and BALTIMORE PARCEL:**

Land situated in the City of Detroit, County of Wayne, State of Michigan, described as follows:

Lots 116 and 117 of "Leavitt's Subdivision of that part of fractional Section 31, Town 1 South, Range 12 East", City of Detroit, Wayne County, Michigan as recorded in Liber 9 of Plats on Page 17, Wayne County Records and being more particularly described as follows: Beginning at the Southeasterly corner of Lot 117 of said "Leavitt's Subdivision" (Liber 9, Plats, Page 17, Wayne County Records), said point being also the Northwesterly corner of Baltimore Avenue (60 feet wide) and Second Avenue (80 feet wide); proceeding thence from said point of beginning South 63 degrees 11 minutes 00 seconds West, along the Northerly line of said Baltimore Avenue, said line being also the Southerly line of Lots 117 and 116 of said subdivision, a measured distance of 72.31 feet (recorded 72.15 feet) to the Southwesterly corner of said Lot 116; thence North 26 degrees 13 minutes 50 seconds West, along the Westerly line of said Lot 116, a distance of 107.50 feet to the Northwesterly corner of said lot; thence North 63 degrees 11 minutes 00 seconds East, along the Southerly line of a public alley (16 feet wide), said line being also the Northerly line of Lots 116 and 117 of said subdivision, a measured distance of 72.21 feet (recorded 72.15 feet) to the Northeasterly corner of said Lot 117; thence South 26 degrees 16 minutes 46 seconds East, along the Westerly line of said Second Avenue, said line being also the Easterly line of said Lot 117, a distance of 107.50 feet to the point of beginning.

Tax Identification No. 001080-2 Ward 02

Tax Identification No. 001090-2 Ward 02

Tax Identification No. 001399-400 Ward 04

**EXHIBIT A-1**

**SUBLEASED PREMISES**

Suites #101, 102, 201, 301 and 401.

**EXHIBIT B**

**COMMENCEMENT DATE AGREEMENT**

THIS AGREEMENT, made as of this \_\_\_\_ day of \_\_\_\_\_, 2009, by and between ARGONAUT BUILDING MASTER TENANT, LLC, a Michigan limited liability company, having an address at c/o College for Creative Studies, 201 E. Kirby, Detroit, Michigan 48292-4034, hereinafter referred to as "Sublandlord" and TEF-SIX, LLC, a Michigan limited liability company, having an address at \_\_\_\_\_, hereinafter referred to as "Subtenant."

W I T N E S S E T H

WHEREAS, Sublandlord and Subtenant entered into that certain sublease dated as of September 30, 2008 (the "Sublease") for premises located at \_\_\_\_\_, Detroit, Michigan, which said premises are more particularly described in said Sublease; and

WHEREAS, Sublandlord and Subtenant desire to memorialize the Commencement Date and Expiration Date of the Sublease;

NOW, THEREFORE, in consideration of the terms of the Sublease, and for other good and valuable consideration, the parties hereto agree as follows:

1. The term of the Sublease commenced on \_\_\_\_\_, 2009, and Subtenant's obligation to pay rent under the Sublease commenced on \_\_\_\_\_, 2009.
2. The Expiration Date of the Sublease is \_\_\_\_\_.
3. The Subtenant has accepted possession of the Subleased Premises fully and without reservation pursuant to the terms of the Sublease.
4. As of the date of this agreement, all improvements to the Subleased Premises that the Sublandlord is required to furnish under the Sublease have been fully completed. There are no provisions in the Sublease obligating the Sublandlord, after the date of this agreement, to erect or build any building on, to perform any construction or renovation work to, or to otherwise make any improvements to the Premises or the Subleased Premises.
5. Monthly rent under the Sublease is \$ \_\_\_\_\_ and is being paid on a current basis, in advance, on the date specified in the Sublease. As of the date of this agreement, the Subtenant is current on payment of all reimbursements of Sublandlord expenses, if any, required under the Sublease.
6. All other terms, conditions and provisions of the Sublease shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

ARGONAUT BUILDING MASTER  
TENANT, LLC, Sublandlord

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 2009

TEF-SIX, LLC, Subtenant

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 2009

---

**ARGONAUT BUILDING MASTER  
TENANT LLC  
("Sublandlord")**

**TEF-SIX, LLC  
("Subtenant")**

**GYMNASIUM**

**ARGONAUT BUILDING**

**SUBLEASE**

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## SUBLEASE

Sublandlord and Subtenant enter this Sublease ("Sublease") as of the Execution Date on the following terms, covenants, conditions and provisions:

### 1. BASIC SUBLEASE PROVISIONS

**1.1 Basic Sublease Definitions.** In this Sublease, the following defined terms have the meanings indicated.

- (a) Execution Date \_\_\_\_\_, 2008.
- (b) Sublandlord: Argonaut Building Master Tenant LLC, a Michigan limited liability company
- (c) Subtenant: TEF-Six, LLC, a Michigan limited liability company
- (d) Building: Argonaut Building – 465-485 West Milwaukee Avenue, Detroit, Michigan
- (e) Premises: The gymnasium building to be constructed pursuant to the Workletter attached hereto as Exhibit F. The building will be generally located as depicted on Exhibit A.
- (f) Use: Athletic and other uses customarily associated with a middle/high school gymnasium.
- (g) Scheduled Term: The period commencing on the Commencement Date (as defined in Section 3.1) and ending on the Expiration Date (as defined in Section 3.1 hereof).
- (h) Scheduled Commencement Date: July 17, 2009
- (i) Base Rent: The following amounts payable in accordance with Article 4:

Months	Annual Rate per RSF	Annual Base Rent	Monthly Base Rent
All Months (including any Partial Month) falling within the Term	\$0	\$0	\$0

- (j) Notice Address: For each party, the following address(es):

To Sublandlord	To Subtenant
Argonaut Building Master Tenant LLC c/o College for Creative Studies 201 E. Kirby Detroit, Michigan 48292-4034 Attn: Anne Beck, Vice President for Administration and Finance	Before the Commencement Date: TEF-Six, LLC c/o Thompson Educational Foundation P.O. Box 6349 Plymouth, Michigan 48170 Attn: John G. Cleary
with a copy to:  Argonaut Building Master Tenant LLC c/o College for Creative Studies 201 E. Kirby Detroit, Michigan 48292-4034 Attn: Geoffrey Sleeman,	After the Commencement Date: TEF-Six, LLC c/o Thompson Educational Foundation P.O. Box 6349 Plymouth, Michigan 48170 Attn: John G. Cleary



Director of Facilities	
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- (k) Billing Address: For each party, the following address:

For Sublandlord	For Subtenant
Argonaut Building Master Tenant LLC c/o College for Creative Studies 201 E. Kirby Detroit, Michigan 48292-4034 Attn: Anne Beck, Vice President for Administration and Finance	TEF-Six, LLC c/o Thompson Educational Foundation P.O. Box 6349 Plymouth, Michigan 48170 Attn: John G. Cleary

- (l) Parking Allotment Intentionally Deleted.
- (m) Liability Limit: \$5,000,000.00 for any one accident or occurrence.
- (n) Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and other days that both the middle school and high school operated in the Building are closed to both students and staff.
- (o) Prime Lease: That certain lease of the Project entered into by Argonaut Campus Developer LLC, as Landlord (the holder of the Landlord's interest in the Prime Lease from time to time is referred to herein as the "Prime Landlord"), and Sublandlord, as Tenant.

## 2. PROJECT

**2.1 Project.** The Land, Building, Premises and all other improvements now or hereafter located in or on the Land are collectively referred to as the "Project."

**2.2 Land.** "Land" means the parcels of real property described in Exhibit B, including easements and other rights that benefit or encumber the real property. Sublandlord's interest in the Land may be in fee or leasehold. The Land may be expanded or reduced after the Execution Date.

**2.3 Building Structure.** "Building Structure" means the structural components in the Premises, including foundations, floor and ceiling slabs, roofs, exterior walls, exterior glass and mullions, columns, beams, shafts, and emergency stairwells. The Building Structure excludes the Leasehold Improvements.

**2.4 Project Mechanical Systems.** "Project Mechanical Systems" means the mechanical, electronic, physical or informational systems generally serving the Premises or other portions of the Project, including the sprinkler, plumbing, heating, ventilating, air conditioning, lighting, communications, security, drainage, sewage, waste disposal, vertical transportation, and fire/life safety systems, but shall not include any portions of the foregoing systems that constitute Leasehold Improvements.

**2.5 Common Areas.** Subtenant will have a non-exclusive right to use the Common Areas subject to the terms of this Sublease. "Common Areas" means those interior and exterior common and public areas on the Land (and appurtenant easements) and in the Building designated by Sublandlord from time to time for the non-exclusive use by Subtenant in common with Sublandlord, other subtenants and occupants, and their employees, agents and invitees. Notwithstanding the foregoing, Subtenant shall not have any right under this Sublease to use any parking facilities located within the Project.

**2.6 Premises.** Sublandlord subleases to Subtenant the Premises subject to the terms of this Sublease. Except as provided elsewhere in this Sublease, by taking possession of the Premises Subtenant accepts the Premises in its "as is" condition and with all faults, and the Premises are deemed in good order, condition, and repair. The Premises includes the Building Structure and Leasehold Improvements, as follows, and all other improvements to the Premises:

- (a) **Leasehold Improvements.** "Leasehold Improvements" mean all non-structural improvements in the Premises or exclusively serving the Premises, and any structural improvements to the Premises made to accommodate Subtenant's particular use of the Premises. The Leasehold Improvements may exist in the Premises as of the Execution Date, or be installed by Sublandlord or Subtenant under this Sublease at the cost of either party, including, but not limited to the work set forth in the attached Exhibit F ("Work Letter"). The Leasehold Improvements include but are not limited to: (1) interior walls and partitions (including those surrounding structural columns entirely or partly within the Premises); (2) the interior drywall on exterior structural walls; (3) stairways and stairwells connecting parts of the Premises on different floors, except those required for emergency exiting; (4) the frames, casements, doors, windows and openings installed in or on the improvements described in (1-3), or that provide entry/exit to/from the Premises; (5) all hardware, fixtures, cabinetry, railings, paneling, woodwork and finishes in the Premises or that are installed in or on the improvements described in (1-4); (6) if any part of the Premises is on the ground floor, the ground floor exterior windows (including mullions, frames and glass); (7) integrated ceiling systems (including grid, panels and lighting); (8) carpeting and other floor finishes; (9) rest room, showers, or other similar facilities that exclusively serve the Premises (including plumbing fixtures, toilets, sinks and built-in appliances); and (10) the sprinkler, plumbing, heating, ventilating, air conditioning, lighting, communications, security, drainage, sewage, waste disposal, vertical transportation, fire/life safety, and other mechanical, electronic, physical or informational systems located within or that exclusively serve the Premises, including the parts of each system that are connected to other such systems located within the Project from the common point of distribution for each system to and throughout the Premises (the "Premises Mechanical Systems").
- (b) **Exclusions from the Premises.** The Premises do not include any easements or rights to natural light, air or view.
- (c) **Common Areas – "Shared Space".** "Shared Space" shall mean that portion of the Common Areas as defined above that are necessary for the continuing conduct of Tenant's Use. Notwithstanding anything to the contrary contained in this Sublease, Sublandlord shall not be required to maintain Common Areas that do not constitute Shared Space. Pursuant to Section 7.2 of the Sublease, Sublandlord shall be responsible for maintaining the Shared Space. Pursuant to Section 7.2 of the Sublease, except in an emergency, Sublandlord will use commercially reasonable efforts to avoid disrupting Subtenant's permitted use of the Premises in maintaining the Shared Space, including providing alternative access to the Premises if the performance of such maintenance would otherwise prohibit access to the Premises, but shall not be required to employ premium labor.

**2.7 Building Standard.** "Building Standard" means the minimum or exclusive type, brand, quality or quantity of materials Sublandlord designates for use in the Building from time to time. No changes to the Building Standard which would materially affect Subtenant shall be made by Sublandlord without the consent of Subtenant, which consent may not be unreasonably withheld.

**2.8 Subtenant's Personal Property.** "Subtenant's Personal Property" means those trade fixtures, furnishings, equipment, work product, inventory, stock-in-trade and other personal property of Subtenant that are not permanently affixed to the Project in a way that they become a part of the Project and will not, if removed, impair the value of the Premises that Subtenant is required to deliver to Sublandlord at the end of the Term under §3.3.

### **3. TERM**

**3.1 Term.** "Term" means the period that begins on the Commencement Date and ends on the Expiration Date, subject to renewal, extension or earlier termination as may be further provided in this Sublease. "Month" means a full calendar month of the Term. If the Commencement Date does not fall on the first day of a month, the initial period from the Commencement Date to the last day of such month shall be the "Partial Month". Notwithstanding anything to the contrary contained in this Sublease, in the event the Prime Lease or the TEF Building Sublease (as defined in Section 13.5 hereof) terminates prior to the expiration or earlier termination of this Sublease, then this Sublease shall terminate simultaneously with the termination of the Prime Lease or TEF Sublease without any liability of Sublandlord to Subtenant.

- (a) **Commencement Date.** The "Commencement Date" means the date that is the earlier of:

- (1) The day that Subtenant first conducts business in any part of the Premises; or
- (2) The later of:
  - (A) The Scheduled Commencement Date, and
  - (B) The day that Sublandlord tenders possession of the Premises to Subtenant with the Tenant Improvements Substantially Complete (defined in Work Letter) or that date that Sublandlord would have tendered possession of the Premises but for delay caused by Subtenant.
- (b) Expiration Date. "Expiration Date" means December 31, 2016.
- (c) Early Occupancy. Subtenant may not enter the Premises for any purpose until Sublandlord tenders the Premises to Subtenant. If Subtenant conducts business in any part of the Premises before the Scheduled Commencement Date, Subtenant will pay Base and Additional Rent for that period at the rate for the first Month that such Rent is due, without discount or excuse.
- (d) Late Occupancy. If Sublandlord fails to tender possession of the Premises to Subtenant by the Scheduled Commencement Date, Sublandlord will not be in default of this Sublease.
- (e) Confirmation of Term. Sublandlord shall notify Subtenant of the Commencement Date using a Notice of Sublease Term ("NLT") in the form attached to this Sublease as Exhibit E. Subtenant shall execute and deliver to Sublandlord the NLT within 10 business days after its receipt, but Subtenant's failure to do so will not reduce Subtenant's obligations or Sublandlord's rights under this Sublease.
- (f) Union Labor. Notwithstanding anything to the contrary contained in this Sublease, Subtenant shall utilize union labor for Subtenant's initial installation of equipment, fixtures and furniture (including Subtenant's Wiring), regardless of whether such installation occurs before or after the Commencement Date.

**3.2 Holdover.** If Subtenant keeps possession of the Premises after the Expiration Date (or earlier termination of this Sublease), without Sublandlord's prior written consent (a "Holdover"), which may be withheld in its sole discretion, then in addition to the remedies available elsewhere under this Sublease or by law, Subtenant will be a tenant-at-sufferance and must comply with all of Subtenant's obligations under this Sublease, except that for each Month of any Holdover, Subtenant will pay as Base Rent 150% of the Base Rent payable for the last Month of the Term (or that would have been payable but for abatement or excuse), without proration for any partial Month of Holdover. Subtenant shall indemnify and defend Sublandlord from and against all claims and damages, both consequential and direct, that Sublandlord suffers due to Subtenant's failure to return possession of the Premises to Sublandlord at the end of the Term. Sublandlord's deposit of Subtenant's Base Rent payment during any Holdover will not constitute Sublandlord's consent to a Holdover, or create or renew any tenancy.

### **3.3 Condition on Expiration.**

- (a) Return of the Premises. At the end of the Term, Subtenant will return possession of the Premises to Sublandlord vacant, free of Subtenant's Personal Property, in broom-clean condition, and with the Premises, including all Leasehold Improvements, in good working order and repair (excepting ordinary wear and tear). In addition, Sublandlord may require Subtenant, by notice at least 30 days before the expiration of the Term, to remove (and restore the Premises damaged by removal of) (i) any Subtenant's Wiring, or (ii) any item of Leasehold Improvements or Alterations that Sublandlord required to be removed (or reserved the right to so require) at the time of approval of the installation of same or for which Subtenant failed to obtain Sublandlord's written consent under §8.1(a).
- (b) Correction by Sublandlord. If Subtenant fails to return possession of the Premises to Sublandlord in the condition required under (a), then Subtenant shall reimburse Sublandlord for the costs incurred by Sublandlord to put the Premises in the condition required under (a), plus an administration fee of five percent (5%) of such costs.
- (c) Abandoned Property. Subtenant's Personal Property left behind in the Premises after the end of the Term will be considered abandoned. Sublandlord may move, store, retain or dispose of these items at Subtenant's expense, plus an administration fee of five percent (5%) of such expenses.

**3.4 Effectiveness of Sublease.** Sublandlord may terminate this Sublease if Prime Landlord fails to obtain financing for the renovation and improvement of the Project (including the Tenant Improvements) on terms and conditions satisfactory to Prime Landlord in its sole discretion, including but not limited to tax credits, other public incentives, private equity and debt financing, by giving written notice thereof to Subtenant on or before October 1, 2008, as such date may be extended in writing by Sublandlord and Subtenant. The effectiveness of this Sublease is also contingent upon Subtenant, as sublandlord, and Creative Urban Education, Inc. ("CUE"), as subtenant, entering into a sublease of the Premises. If such contingency is not satisfied by October 1, 2008, as such date may be extended in writing by Sublandlord and Subtenant, either party may terminate this Sublease by giving written notice to the other party at any time prior to the satisfaction of this contingency. Upon any termination of this Sublease pursuant to this Section 3.4, neither party shall have any further obligations or liabilities under this Sublease.

#### **4. RENT**

**4.1 Base Rent.** During the Term, Subtenant shall pay all Base Rent in advance, in equal Monthly installments, on the Commencement Date and thereafter by the 1<sup>st</sup> of each Month. Base Rent for any Partial Month will be prorated.

**4.2 Additional Rent.** Subtenant's obligation to pay Taxes under this §4.2 is referred to in this Sublease as "Additional Rent."

- (a) **Taxes.** For each full or partial calendar year during the Term (each, a "Lease Year"), Subtenant shall pay, in the manner described below, one hundred percent (100%) of the Taxes (as defined below) for such Lease Year. "Premises Taxes" means (i) that portion of the real and personal property taxes and assessments (including ad valorem and special assessments) levied on the Project that is attributable to the Premises, as reasonably determined by Sublandlord, and (ii) that portion of the taxes, assessments or fees in lieu of the taxes described in (i) that is attributable to the Premises, as reasonably determined by Sublandlord. Subtenant shall be entitled to receive one hundred percent (100%) of that portion of the reimbursement payments received by Sublandlord pursuant to that certain Reimbursement Agreement between Prime Sublandlord and the City of Detroit Brownfield Redevelopment Authority that are attributable to the Taxes for a Lease Year. Subtenant's share of any such reimbursement payment shall, at Sublandlord's option, either be paid to Subtenant within forty-five (45) days after Sublandlord's receipt of such reimbursement payment or applied by Sublandlord to Additional Rent next becoming due until fully applied.
- (b) **Estimates.** Sublandlord will reasonably estimate Additional Rent each calendar year that Additional Rent may be payable. Subtenant will pay the estimated Additional Rent in advance, in equal monthly installments, by the first day of each Month. Sublandlord may reasonably revise its estimate during a calendar year and Subtenant will pay the monthly installments based on the revised estimate, commencing 30 days following the date of such revision. The aggregate estimates of Additional Rent payable by Subtenant in a calendar year are the "Estimated Additional Rent."
- (c) **Settlement.** As soon as practical after the end of each calendar year that Additional Rent is payable, Sublandlord will give Subtenant a statement of the actual Additional Rent for the calendar year. The statement of Additional Rent is conclusive, binds Subtenant, and Subtenant waives all rights to contest the statement, except for items of Additional Rent to which Subtenant objects by notice to Sublandlord given within 90 days after receipt of Sublandlord's statement; however, Subtenant's objection will not relieve Subtenant from its obligation to pay Additional Rent pending resolution of any objection. If the Additional Rent exceeds the Estimated Additional Rent for the calendar year, Subtenant shall pay the difference to Sublandlord in a lump sum as Rent within 30 days after receipt of Sublandlord's statement of Additional Rent. If the Estimated Additional Rent paid by Subtenant exceeds the Additional Rent for the calendar year, then Sublandlord shall credit the overpayment against Rent next due. However, if the Term ends during a calendar year, Sublandlord may, in Sublandlord's sole discretion, elect to either : (1) forego the settlement of Additional Rent for the calendar year that is otherwise required and accept the Subtenant's payment of Estimated Additional Rent for such calendar year in satisfaction of Subtenant's obligations to pay Additional Rent for the final calendar year, or (2) have Sublandlord's and Subtenant's obligations under this §4.2(e) survive the end of the Term.

**4.3 Other Taxes.** Upon demand, Subtenant will reimburse Sublandlord for taxes paid by Sublandlord on (a) Subtenant's Personal Property, (b) Rent, (c) Subtenant's occupancy of the Premises, or (d) this Sublease. If Subtenant cannot lawfully reimburse Sublandlord for these taxes, then the Base Rent will be increased to yield to Sublandlord the same amount after these taxes were imposed as Sublandlord would have received before these taxes were imposed.

**4.4 Terms of Payment.** "Rent" means all amounts payable by Subtenant under this Sublease and the exhibits, including Base Rent and Additional Rent. If a time for payment of an item of Rent is not specified in this Sublease, then Subtenant will pay Rent within 30 days after receipt of Sublandlord's statement or invoice. Unless otherwise provided in this Sublease, Subtenant shall pay Rent without notice, demand, deduction, abatement or setoff, in lawful U.S. currency, at Sublandlord's Billing Address. Sublandlord will send invoices payable by Subtenant to Subtenant's Billing Address; however, neither Sublandlord's failure to send an invoice nor Subtenant's failure to receive an invoice for Base Rent (and installments of Estimated Additional Rent) will relieve Subtenant of its obligation to timely pay Base Rent (and installments of Estimated Additional Rent). Each partial payment by Subtenant shall be deemed a payment on account. No endorsement or statement on any check or any accompanying letter shall constitute an accord and satisfaction, affect Sublandlord's right to collect the full amount due, or require Sublandlord to apply any payment to other than Rent earliest due. No payment by Subtenant to Sublandlord will be deemed to extend the Term or render any notice, pending suit or judgment ineffective. By notice to the other, each party may change its Billing Address. Any payment made by Subtenant to a lockbox maintained by Sublandlord for receipt of payment of Rent shall not be deemed to have been accepted by Sublandlord provided such payment is returned to Subtenant within ten (10) days after Sublandlord receives notice that the payment has been received into the lockbox.

**4.5 Late Payment.** If Sublandlord does not receive all or part of any item of Rent when due, then Subtenant shall pay Sublandlord a "Late Charge" of 5% of the overdue amount. Subtenant agrees that the Late Charge is not a penalty, and will compensate Sublandlord for costs not contemplated under this Sublease that are impracticable or extremely difficult to fix. Sublandlord's acceptance of a Late Charge does not waive Subtenant's default.

## **5. USE & OCCUPANCY**

**5.1 Use.** Subtenant shall use and occupy the Premises only for the Use and for no other purpose without Sublandlord's written consent, which consent may be withheld in Sublandlord's sole and absolute discretion. Sublandlord does not represent or warrant that the Project is suitable for the conduct of Subtenant's particular business.

### **5.2 Compliance with Laws and Directives.**

(a) Subtenant's Compliance. Subject to the remaining terms of this Sublease, Subtenant shall comply at Subtenant's expense with all directives of Sublandlord's insurers, governing authorities or laws concerning:

- (1) The Premises, including the Leasehold Improvements and Alterations,
- (2) Subtenant's use or occupancy of the Premises,
- (3) Subtenant's employer/employee obligations,
- (4) A condition created by Subtenant or its Affiliates or any of their respective agents, employees, contractors, or invitees,
- (5) Subtenant's failure to comply with this Sublease,
- (6) The negligence of Subtenant or its Affiliates or any of their respective agents, employees, invitees or contractors, or
- (7) Any chemical wastes, contaminants, pollutants or substances that are hazardous, toxic, infectious, flammable or dangerous, or regulated by any local, state or federal statute, rule, regulation or ordinance for the protection of health or the environment, including but not limited to any applicable provisions under the Natural Resources and Environmental Protection Act of 1994 (Act 451), Part 201, including the Administrative Rules promulgated thereunder as most recently amended on December 21, 2002 ("Hazardous Materials") that are introduced to the Project, handled or disposed by Subtenant or its Affiliates or any of their respective agents, employees, invitees or contractors.

(b) Environmental Provisions.

- (1) Subtenant shall not "treat", "store" or "dispose" of any "hazardous substances," "hazardous wastes" or "toxic substances" as those terms are defined under CERCLA, 42 U.S.C. 9601, et seq., RCRA 42 U.S.C. 6901, et seq., or TSCA, 15 U.S.C. 2601, et seq., or under similar Michigan law on, at or below the Premises or Project.
- (2) Use of ground water at, in or under the Project, including potable and non-potable uses, is prohibited.

**5.3 Occupancy.** Subtenant shall not interfere with Building services or other subtenants' rights to quietly enjoy their respective premises or the Common Areas. Subtenant shall not make or continue a nuisance, including any objectionable odor, noise, fire hazard, vibration, or wireless or electromagnetic transmission. Subtenant will not maintain any Leasehold Improvements or use the Premises in a way that increases the cost of insurance required under §9.2, or requires insurance in addition to the coverage required under §9.2.

## **6. SERVICES & UTILITIES**

### **6.1 Standard Services.**

(a) Standard Services Defined. "Standard Services" mean:

- (1) Heating, ventilation and air-conditioning ("HVAC") during Business Hours as reasonably required to comfortably use the interior Common Areas;
- (2) Tempered water from the public utility for use in Common Areas rest rooms and rest rooms, showers, and any other areas of the Premises that require water, to the extent depicted on the Construction Documents approved by Sublandlord;
- (3) Janitorial services to the interior Common Areas 5 days a week, except Holidays, to the extent reasonably determined by Sublandlord;
- (4) Electricity from Sublandlord's selected provider(s) for Common Areas lighting, Building Standard light fixtures in the Premises and to convenience outlets in the Premises for the operation of customary quantities and types of office equipment, however, the connected load in the Premises will not at any time exceed 3 watts per RSF of the Premises.

(b) Standard Services Provided. During the Term, Sublandlord shall provide the Standard Services to Subtenant, except as provided in this Article 6. Sublandlord is not responsible for any inability to provide Standard Services due to either: the concentration of personnel or equipment in the Premises; or Subtenant's use of equipment in the Premises that is not customary office equipment, has special cooling requirements, or generates heat.

**6.2 Additional Services.** Unless Subtenant obtains Sublandlord's prior written consent, Subtenant will not use utilities or services in excess of the Standard Services. If Sublandlord so consents, Sublandlord may provide utilities and services in excess of the Standard Services subject to the following:

- (a) Lighting. Sublandlord will furnish both Building Standard and non-Building Standard lamps, bulbs, ballasts and starters that are part of the Leasehold Improvements for purchase by Subtenant at Sublandlord's cost, plus Sublandlord's administration fee of 5%. Sublandlord will install non-Building Standard items at Sublandlord's scheduled rate for this service.
- (b) Other Utilities and Services. Subtenant will pay as Rent the actual cost of utilities or services (other than lighting addressed in (a)) either used by Subtenant or provided at Subtenant's request in excess of that provided as part of the Standard Services, plus Sublandlord's administration fee of 5%. Subtenant's excess consumption may be estimated by Sublandlord unless either Sublandlord requires or Subtenant elects to install Building Standard meters to measure Subtenant's consumption.
- (c) Additional Systems and Metering. Sublandlord may require Subtenant, at Subtenant's expense, to upgrade or modify existing Project Mechanical Systems serving the Premises or the Leasehold Improvements to the extent necessary to meet Subtenant's excess requirements (including installation of Building Standard meters to measure the same).

- (d) Janitorial Services to the Premises. Upon Subtenant's request, Sublandlord shall provide janitorial services to the Premises five (5) days a week except Holidays, to the extent reasonably determined by Landlord. Sublandlord shall invoice Subtenant from time to time for the costs incurred by Sublandlord in providing such janitorial services and Subtenant shall pay each such invoice within ten (10) days after Subtenant's receipt thereof.

**6.3 Utilities Billing.** Subtenant's total consumption of electricity in the Premises, including lighting and convenience outlets, electricity consumed in operating the heat pumps that furnish air conditioning and heat to the Premises, and water and gas furnished to the Premises shall be separately submetered to the Premises. Subtenant shall pay to Sublandlord as Rent, in the manner described below, the actual cost of all such electricity, water and gas based on readings of such submeters by Sublandlord ("Utility Rent"). Sublandlord will reasonably estimate Utility Rent each calendar year that Utility Rent may be payable. Subtenant will pay the estimated Utility Rent in advance, in equal monthly installments, by the first day of each month, subject to adjustment as provided below. Sublandlord may reasonably revise this estimate during a calendar year and Subtenant will pay the monthly installments based on the revised estimate, commencing thirty (30) days following the date of such revision, subject to adjustment as provided below. Based on monthly readings of the submeters by Sublandlord, Sublandlord shall determine the actual Utility Rent for the period in question and shall furnish Subtenant with an invoice reflecting the actual Utility Rent for such period. If the actual Utility Rent for such period exceeds the estimated installment of Utility Rent for such period, Subtenant shall pay an amount equal to such excess with the next installment of estimated Utility Rent that becomes due. If the installment of estimated Utility Rent for such period exceeds the actual Utility Rent for such period, the excess shall be credited against the next installment of estimated Utility Rent that becomes due.

**6.4 Telecommunication Services.** Subtenant will contract directly with third party providers and will be solely responsible for paying for all telephone, data transmission, video and other telecommunication services ("Telecommunication Services") subject to the following:

- (a) Providers. Each Telecommunication Services provider that does not already provide service to the Building shall be subject to Sublandlord's approval, which Sublandlord may withhold in Sublandlord's reasonable discretion. Without liability to Subtenant, the license of any Telecommunication Services provider servicing the Building or Premises may be terminated under the terms of the license, or not renewed upon the expiration of the license. Notwithstanding the foregoing, at all times during the term of this Sublease there shall be Sublandlord approved providers of all Telecommunication Services to the Building.
- (b) Subtenant's Wiring. Sublandlord may, in its sole discretion, designate the location of all wires, cables, fibers, equipment, and connections ("Subtenant's Wiring") for Subtenant's Telecommunication Services, and restrict and control access to telephone cabinets and rooms. Subtenant may not use or access the Building, Building Structure, Project Mechanical Systems, or Common Areas for Subtenant's Wiring without Sublandlord's prior written consent, which Sublandlord may withhold in Sublandlord's sole discretion, or for which Sublandlord may charge a fee determined by Sublandlord.
- (c) No Beneficiaries. This §6.4 is solely for Subtenant's benefit, and no one else shall be considered a beneficiary of these provisions.

**6.5 Special Circumstances.** Without breaching this Sublease or creating any liability on the part of Sublandlord, Sublandlord may interrupt, limit or discontinue any utility or services Sublandlord provides under this Article 6 or which are obtained by Subtenant under this Article 6 under any of the following circumstances: (a) in an emergency; (b) to comply with laws or to conform to voluntary government or industry guidelines; (c) to repair and maintain the Project under §7.2; or (d) to modify, renovate or improve the Project under §8.2. Sublandlord shall not be liable in any manner for any interruption in services to be provided by Sublandlord or obtained by Subtenant under this Article 6; provided, however, that in the event of anticipated disruptions in any of the foregoing services that may result from the activities of Sublandlord or its agents described above, Subtenant shall be given as much notice as is reasonably practical of the anticipated interruption of such service.

## **7. REPAIRS**

**7.1 Subtenant's Repairs.** Except as provided in Article 12, during the Term Subtenant shall, at Subtenant's cost, repair, maintain and replace, if necessary, the Premises, including the Leasehold Improvements, and

keep the Premises in good order, condition and repair. Subtenant's work under this §7.1 must be (a) approved by Sublandlord before commencement, (b) supervised by Sublandlord at Subtenant's expense, if Sublandlord reasonably so requires, and (c) performed in compliance with law and in a first-class manner with materials of at least Building Standard. If Subtenant fails to perform any of its obligations under this §7.1, then Sublandlord may perform such obligations and Subtenant will pay as Rent to Sublandlord the cost of such performance, including an amount sufficient to reimburse Sublandlord for overhead and supervision, within 10 days after the date of Sublandlord's invoice. For purpose of performing such obligations, or to inspect the Premises, Sublandlord may enter the Premises upon not less than two days' prior notice to Subtenant (except in cases of actual or suspected emergency, in which case no prior notice will be required) without liability to Subtenant for any loss or damage incurred as a result of such entry, provided that Sublandlord will take reasonable steps in connection with such entry to minimize any disruption to Subtenant's business or its use of the Premises. Subtenant will notify Sublandlord promptly after Subtenant learns of (x) any fire or other casualty in the Premises, (y) any damage to or defect in the Premises, including the fixtures and equipment in the Premises, for the repair of which Sublandlord might be responsible, and (z) any damage to or defect in any parts or appurtenances of the Building's sanitary, electrical heating, air conditioning, elevator or other systems located in or passing through the Premises.

**7.2 Sublandlord's Repairs.** Except as provided in Article 12, during the Term Sublandlord shall repair, maintain and replace, if necessary, all parts of the Project that are not Subtenant's responsibility under §7.1, or any other subtenant's responsibility under their respective sublease, and otherwise keep the Project in good order and condition according to the standards prevailing for comparable buildings in the area in which the Building is located. Except in an emergency, Sublandlord will use commercially reasonable efforts to avoid disrupting Subtenant's permitted Use of the Premises in performing Sublandlord's duties under this §7.2, but shall not be required to employ premium labor. Subtenant may not repair or maintain the Project on Sublandlord's behalf or offset any Rent for any repair or maintenance of the Project that is undertaken by Subtenant.

## **8. ALTERATIONS**

**8.1 Alterations by Subtenant.** "Alterations" mean any modification, addition or improvement to the Premises made by Subtenant, including any modification to the Building, Project Mechanical Systems or Common Areas required by law or governing authority as a condition of performing the work. Alterations do not include work performed under a Work Letter that is part of this Sublease. Alterations are made at Subtenant's sole cost and expense, subject to the following:

- (a) Consent Required. All Alterations require Sublandlord's prior written consent. If a Design Problem exists, Sublandlord may withhold its consent in Sublandlord's sole discretion; otherwise, Sublandlord will not unreasonably withhold its consent. Unless Subtenant obtains Sublandlord's prior written consent to the Alterations becoming part of the Premises to be tendered to Sublandlord on termination of the Sublease, Sublandlord may require Subtenant to remove Alterations and restore the Premises under §3.3 upon termination of this Sublease.
- (b) Design Problem Defined. "Design Problem" means a condition that results, or will result, from work proposed, being performed or that has been completed that either:
  - (1) Does not comply with laws;
  - (2) Does not meet or exceed the Building Standard;
  - (3) Exceeds the capacity, adversely affects, is incompatible with, or impairs Sublandlord's ability to maintain, operate, alter, modify or improve the Building, Project Mechanical Systems or Project;
  - (4) Affects the exterior appearance of the Premises, Building or Common Areas;
  - (5) Violates any agreement affecting the Project;
  - (6) Costs more to demolish than Building Standard improvements;
  - (7) Violates any insurance regulations or standards for a fire-resistive office building;
  - (8) Causes a "work of visual art" to become "incorporated in or made part of a building"(as defined in the Visual Artists Rights Act of 1990, "VARA"); or



- (9) Locates any equipment, Subtenant's Wiring or Subtenant's Personal Property on the roof of the Building or Premises, in Common Areas or in telecommunication or electrical closets.
- (c) Performance of Alterations. Alterations shall be performed by Subtenant in a good and workmanlike manner according to plans and specifications approved by Sublandlord. All Alterations shall comply with law and insurance requirements. Sublandlord's designated contractors must perform Alterations affecting the Building, Building Structure, Project Mechanical Systems or Common Areas; and, all other work will be performed by qualified contractors that meet Sublandlord's insurance requirements and are otherwise approved by Sublandlord. Promptly after completing Alterations, Subtenant will deliver to Sublandlord "as-built" CAD plans, proof of payment, and unconditional waivers of lien from all contractors, subcontractors, sub-subcontractors and suppliers.
- (d) Bonding. If requested by Sublandlord, before commencing Alterations Subtenant shall at Subtenant's cost obtain bonds, or deposit with Sublandlord other security acceptable to Sublandlord for the payment and completion of the Alterations. These bonds or other security shall be in form and amount acceptable to Sublandlord.
- (e) Alterations Fee. Subtenant shall pay Sublandlord, as Rent, the commercially reasonable hourly rates charged from time to time by Sublandlord for personnel to review Subtenant's plans for, and coordinate construction of, any Alterations ("Alterations Fee"), provided, however, that if the total cost of any such Alterations will exceed \$100,000, the Alterations Fee with respect to such Alterations shall not exceed two percent (2%) of the total cost of such Alterations. In addition, Subtenant shall reimburse Sublandlord for the actual cost that Sublandlord reasonably incurs to have engineers, architects or other professional consultants review Subtenant's plans and work in progress, or inspect the completed Alterations.

**8.2 Alterations by Sublandlord.** Sublandlord may modify, renovate or improve the Project as Sublandlord deems appropriate, provided Sublandlord uses commercially reasonable efforts to avoid disrupting Subtenant's permitted Use of the Premises.

**8.3 Liens and Disputes.** Subtenant will keep title to the Project free of any liens concerning the Premises, Alterations, or Subtenant's Personal Property, and will promptly take whatever action is required to have any of these liens released and removed of record (including, as necessary, posting a bond or other deposit). To the extent legally permitted, each contract and subcontract for Alterations will provide that no lien attaches to or may be claimed against the Project. Subtenant will indemnify Sublandlord for costs and expenses that Sublandlord reasonably incurs because of Subtenant's violation of this §8.3.

## **9. INSURANCE**

### **9.1 Subtenant's Insurance.**

- (a) Subtenant's Coverage. Before taking possession of the Premises for any purpose (including construction of any Alterations, if any) and during the Term, Subtenant will provide and keep in force, or shall cause any subtenant of Subtenant to provide and keep in force, the following coverage:
- (1) Commercial general liability insurance insuring Subtenant's use and occupancy of the Premises and use of the Project, and covering personal and bodily injury, death, and damage to others' property of not less than the Liability Limit. Each of these policies shall include cross liability and severability of interests clauses, and be written on an occurrence, and not claims-made, basis. Each of these policies shall name Sublandlord, Prime Landlord, the Building property manager, each secured lender, and any other party reasonably designated by Sublandlord as an additional insured ("Additional Insured"). The commercial general liability insurance carried by Sublandlord or other Additional Insureds pursuant to the terms of this Sublease shall be non contributing and Subtenant's commercial general liability insurance shall be primary to any such insurance carried by Sublandlord or other Additional Insureds.
- (2) All risk insurance (including standard extended coverage endorsement perils, leakage from fire protective devices and other water damage) covering the full replacement cost of the Premises, including the Leasehold Improvements, and Subtenant's Personal Property. Each

of these policies shall name Sublandlord and each Additional Insured as loss payee to the extent of their interest in the Premises. Each of these policies shall include a provision or endorsement in which the insurer waives its right of subrogation against Sublandlord and each Additional Insured.

- (3) Insurance covering the perils described in (2) for Subtenant's loss of income or insurable gross profits with a limit not less than Subtenant's annual Rent.
  - (4) If any boiler or machinery is operated solely to provide service to the Premises, boiler and machinery insurance, with a limit of at least the Liability Limit.
  - (5) Insurance required by law, including workers' compensation insurance.
  - (6) Employers liability insurance with limits not less than \$1 million/each accident; \$1 million/disease - each employee; \$1 million/disease - aggregate.
  - (7) Commercial automobile liability insurance covering all owned, hired, and non-owned vehicles with a combined single limit of not less than \$1 million for each accident or person.
  - (8) Insurance covering the Premises, including the Leasehold Improvements, and Subtenant's Personal Property against loss or damage due to earthquake or difference in conditions perils. Subtenant may elect to self-insure this coverage. If Subtenant does not elect to self-insure this coverage, then each of these policies shall name Sublandlord and each Additional Insured a loss payee to the extent of their interest in the Premises.
- (b) Insurers and Terms. Each policy required under (a) shall be written with insurance companies licensed to do business in the state in which the Building is located having a rating of not less than A+ and a Financial Size Class ("FSC") of at least VIII by A. M. Best Company, and be on terms that are acceptable to Sublandlord.
- (c) Proof of Insurance. Subtenant shall provide Sublandlord with certificates of insurance or other reasonable proof that the coverage required under (a) is in effect. Subtenant will provide reasonable proof of renewal or replacement at least 30 days prior to any policy expiration. Failure of Subtenant to provide any insurance required by this Sublease shall not be construed as a waiver of liability or any limit of damages, the parties expressly agreeing that the requirement to carry insurance does not deem that said insurance is adequate to cover the damages so insured.
- (d) Waiver of Subrogation. Each policy required under (a) shall include a provision or endorsement in which the insurer waives its right of subrogation against Sublandlord and each Additional Insured.

## **9.2 Sublandlord's Insurance.**

- (a) Sublandlord's Coverage. During the Term, Sublandlord will provide and keep in force the following coverage:
- (1) Commercial general liability insurance.
  - (2) All risk insurance (including standard extended coverage endorsement perils, leakage from fire protective devices and other water damage) covering the Project improvements (excepting the Premises or leasehold improvements to be insured by other subtenants). Each of these policies shall include a provision or endorsement in which the insurer waives its right of subrogation against Subtenant.
  - (3) Insurance covering the perils described in (2) for Sublandlord's loss of rental income or insurable gross profits. Each of these policies shall include a provision or endorsement in which the insurer waives its right of subrogation against Subtenant.
  - (4) Boiler and machinery insurance.
  - (5) Other insurance that Sublandlord elects to maintain.
- (b) Terms. Each of the policies required under (a) will have those limits, deductibles, retentions and other terms that Sublandlord prudently determines.

## 10. DAMAGE OR DESTRUCTION

**10.1 Damage and Repair.** If all or any part of the Project is damaged by fire or other casualty, then the parties will proceed as follows:

- (a) **Sublandlord's Estimates.** Sublandlord will assess the damage to the Project (but not the Premises) and notify Subtenant of Sublandlord's reasonable estimate of the time required to substantially complete repairs and restoration of the Project ("Repair Estimate"). Within 30 days after the later of the casualty, issuance of the Repair Estimate, receipt of any denial of coverage or reservation of rights from Sublandlord's insurer, or receipt of notice from the holder of any Encumbrance (as defined in § 14.2) that all or any portion of the insurance proceeds will be used to retire the debt secured by such Encumbrance, Sublandlord may terminate the Sublease by written notice to Subtenant if:
  - (1) The Repair Estimate exceeds 270 days; or
  - (2) The damage or destruction occurs in the last 12 Months of the Term; or
  - (3) The repair and restoration is not fully covered by insurance maintained or required to be maintained by Sublandlord (subject only to those deductibles or retentions Sublandlord elected to maintain) or Sublandlord's insurer denies coverage or reserves its rights on coverage; or
  - (4) The holder of any Encumbrance requires that all or a portion of the insurance proceeds be used to retire the debt secured by such Encumbrance or the damage is caused by a casualty not covered by the insurance required to be maintained by Sublandlord under § 9.2(a)(ii).
- (b) **Repairs.** If Sublandlord does not terminate the Sublease under (a), then the Sublease shall remain in full force and effect and the parties will proceed as follows:
  - (1) Sublandlord will repair and restore the Project (but not the Premises or any other improvements which any other subtenant is required to restore under its sublease) to the condition existing prior to such damage, except for modifications required by law. Sublandlord will perform such work with reasonable promptness, subject to delay for loss adjustment, delay caused by Subtenant and Force Majeure.
  - (2) Subtenant will repair and restore the Premises, including the Leasehold Improvements, with reasonable promptness to the condition existing prior to such damage, but not less than current Building Standards, except for modifications required by law.

**10.2 Rent Abatement.** If as a result of the damage or destruction under §10.1 any part of the Premises becomes Untenantable, which shall mean the Subtenant is actually unable to use all or any portion of the Premises in the normal conduct of its business, and Subtenant does not actually use the Untenantable part of the Premises for more than 3 consecutive business days, then Subtenant's Base Rent and Additional Rent for the Untenantable part of the Premises not used by Subtenant shall, to the extent Sublandlord receives the proceeds of loss of rental income insurance, be abated from the 4<sup>th</sup> consecutive business day until the earlier of the date (a) the damaged or destroyed part of the Premises becomes tenantable, or (b) 180 days after Sublandlord completes its required repairs and restoration. Subtenant's sole remedy against Sublandlord for damage or destruction of any part of the Project is abatement of Base Rent and Additional Rent under this §10.2, and Sublandlord will not be liable to Subtenant for any other amount, including damages to Subtenant's Personal Property, consequential damages, actual or constructive eviction, or abatement of any other item of Rent.

## 11. INDEMNITY

**11.1 Claims.** "Claims" mean any and all liabilities, losses, claims, demands, damages or expenses that are suffered or incurred by a party, including attorneys' fees reasonably incurred by that party in the defense or enforcement of the rights of that party.

### 11.2 Sublandlord's Waivers and Subtenant's Indemnity.

- (a) **Sublandlord's Waivers.** Sublandlord waives any Claims against Subtenant and its Affiliates for perils insured or required to be insured by Sublandlord under subsections (2) and (3) of §9.2(a), except to the extent caused by the gross negligence or willful misconduct of Subtenant or its Affiliates.

- (b) Subtenant's Indemnity. Unless waived by Sublandlord under §11.2(a), Subtenant will indemnify and defend Sublandlord and Prime Landlord and their respective Affiliates and hold each of them harmless from and against Claims arising from:

- (1) Any accident or occurrence on or about the Premises, except to the extent caused by Sublandlord's or Prime Landlord's or any of their respective Affiliate's gross negligence or willful misconduct; or
- (2) Subtenant's negligence or willful misconduct; or
- (3) Any claim for commission or other compensation by any person for services rendered to Subtenant in procuring this Sublease.

**11.3 Subtenant's Waivers and Sublandlord's Indemnity.**

- (a) Subtenant's Waivers. Subtenant waives any Claims against Sublandlord and Prime Landlord and their respective Affiliates for:

- (1) Perils insured or required to be insured by Subtenant under subsections (2), (3) and (8) of §9.1(a), except to the extent caused by the gross negligence or willful misconduct of Sublandlord or Prime Landlord or their respective Affiliates, but in all events Subtenant waives any Claims for any special or consequential damages (such as interruption of business, loss of income, or loss of opportunity); or
- (2) Damage caused by any public utility, public work, other subtenants or occupants of the Project, or persons other than Sublandlord or Prime Landlord or any of their respective Affiliates; or
- (3) Damages in excess of the insurance Sublandlord maintains under §9.1.

- (b) Sublandlord's Indemnity. Unless waived by Subtenant under (a), Sublandlord will indemnify and defend Subtenant and its Affiliates and hold each of them harmless from and against Claims arising from:

- (1) Sublandlord's gross negligence or willful misconduct; or
- (2) Any claim for commission or other compensation by any person for services rendered to Sublandlord in procuring this Sublease.

**11.4 Affiliates Defined.** "Affiliates" means with respect to a party (a) that party's partners, co-members and joint venturers, (b) each corporation or other entity that is a parent or subsidiary of that party, (c) each corporation or other entity that is controlled by or under common control of a parent of such party, and (d) the directors, officers, employees and agents of that party and each person or entity described in this §11.4(a-c).

**11.5 Survival of Waivers and Indemnities.** Sublandlord's and Subtenant's waivers and indemnities under §11.2 and §11.3 will survive the expiration or early termination of this Sublease.

**12. CONDEMNATION**

**12.1 Taking.** "Taking" means acquiring of all or part of the Project for any public or quasi-public use by exercise of a right of eminent domain or under any other law, or any sale in lieu thereof. If a Taking occurs:

- (a) Total Taking. If because of a Taking substantially all of the Premises are Untenantable for substantially all of the remaining Term, then the Sublease terminates on the date of the Taking.
- (b) Partial Taking. If a Taking does not cause the Sublease to be terminated under (a), then Sublandlord will restore (and alter, as necessary) the Premises to be tenantable, unless the Sublease is terminated by either Sublandlord or Subtenant under the following circumstances:
  - (1) Sublandlord may terminate the Sublease upon 60 days prior written notice to Subtenant if Sublandlord reasonably determines that it is uneconomical to restore or alter the Premises to be tenantable.

- (2) Subtenant may terminate the Sublease upon 60 days prior written notice to Sublandlord if the Taking causes more than 40% of the Premises to be Untenantable for the remainder of the Term and Subtenant cannot reasonably operate Subtenant's business for the Use in the remaining Premises.

- (c) If the Sublease is not terminated under (a) or (b), the Rent will be reduced for the term of the Taking based upon the RSF of the Premises made Untenantable by the Taking.

**12.2 Awards.** Sublandlord is entitled to the entire award for any claim for a taking of any interest in this Sublease or the Project, without deduction or offset for Subtenant's estate or interest; however, Subtenant may make a claim for relocation expenses and damages to Subtenant's Personal Property and business to the extent that Subtenant's claim does not reduce Sublandlord's award.

### **13. SUBTENANT TRANSFERS**

**13.1 Transfer Defined.** "Transfer" means any:

- (a) Sublease of all or part of the Premises, or assignment, mortgage, hypothecation or other conveyance of an interest in this Sublease;
- (b) Use of the Premises by anyone other than Subtenant with Subtenant's consent provided that the use of the Premises for athletic or related activities by subtenants of the Building shall not constitute a Transfer;
- (c) Change in Subtenant's form of organization (e.g., a change from a partnership to limited liability company);
- (d) Transfer of 51% or more of Subtenant's assets, shares (except shares transferred in the normal course of public trading), membership interests, partnership interests or other ownership interests; or
- (e) Transfer of effective control of Subtenant.

**13.2 Consent Required.** Except as provided in Section 13.5 hereof, each proposed Transfer requires Sublandlord's prior written consent, which consent may be withheld in Sublandlord's sole and absolute discretion except as otherwise provided below, in which case the parties will proceed as follows:

- (a) **Subtenant's Notice.** Subtenant shall notify Sublandlord at least 30 days prior to the proposed Transfer of the name and address of the proposed transferee and the proposed use of the Premises, and, in the case of an assignment of this Sublease, include in the notice the Transfer documents and copies of the proposed transferee's balance sheets and income statements (both current and for the past 2 years).
- (b) **Sublandlord's Rights.** Within 30 days after receipt of Subtenant's complete notice, Sublandlord may:
  - (1) If the proposed Transfer is either an assignment of this Sublease or sublease of substantially all of the Premises, terminate this Sublease as of the proposed Transfer date, in which case neither Sublandlord nor Subtenant shall have any further obligations or liabilities to the other from and after the date of such termination except for those liabilities or obligations which arose prior to the date of termination or which expressly survive the termination of this Sublease; or
  - (2) If the proposed Transfer is a sublease of all of the Premises or any part of the Premises that will be separately demised and have its own entrance from the Common Areas, exercise a right of first refusal to sublease such portion of the Premises at the lesser of (A) the Rent (prorated for subletting part of the Premises), or (B) the rent payable in the proposed Transfer; or
  - (3) Consent or deny consent to the proposed Transfer, provided however, that Sublandlord shall not unreasonably withhold its consent to a proposed Transfer to a transferee whose proposed use is compatible with an integrated educational community.

**13.3 Payments to Sublandlord.** Subtenant shall pay Sublandlord 100% of Transfer receipts that exceed Subtenant's Rent (on a per square foot basis); after Subtenant is reimbursed for Subtenant's reasonable and customary out-of-pocket costs incurred in the Transfer, including attorneys' fees, Alterations, and broker commissions.

**13.4 Effect of Transfers.** No Transfer releases Subtenant or any guarantor of this Sublease from any Sublease obligation. Sublandlord's acceptance of a payment from any person or entity other than Subtenant that occupies the Premises does not waive Subtenant's obligations under this Article 13. If Subtenant is in default of this Sublease, Sublandlord may proceed against Subtenant without exhausting any remedies against any transferee and may require (by written notice to any transferee) any transferee to pay Transfer rent owed Subtenant directly to Sublandlord (which Sublandlord will apply against Subtenant's Sublease obligations). In addition, if any subtenant, pursuant to its sublease with Subtenant, pays directly to Sublandlord any Base Rent (as defined in such sublease), Additional Rent or Utility Rent, such payments shall be credited against the Base Rent, Additional Rent or Utility Rent, whichever is applicable, payable by Subtenant to Sublandlord under this Sublease. Termination of this Sublease for any reason will not result in a merger. Each sublease will be deemed terminated upon termination of this Sublease unless Sublandlord notifies the subtenant in writing of Sublandlord's election to assume any sublease, in which case the subtenant shall attorn to Sublandlord under the executory terms of the sublease.

**13.5 Permitted Transfers.** Notwithstanding the foregoing, Subtenant may, without Sublandlord's consent, assign this Sublease to an assignee of the TEF Building Sublease pursuant to an assignment permitted under Article 13 of the TEF Building Sublease, and Subtenant may sublease the entire Premises to a person or entity that subleases all or any portion of the Premises (as defined in the TEF Building Sublease) from Subtenant pursuant to a sublease permitted under Article 13 of the TEF Building Sublease.

## **14. SUBLANDLORD TRANSFERS**

**14.1 Sublandlord's Transfer.** Sublandlord's right to transfer any interest in the Project or this Sublease is not limited by this Sublease. Upon any such transfer, Subtenant will attorn to Sublandlord's transferee and Sublandlord will be released from liability under this Sublease, except for any Sublease obligations accruing before the transfer that are not assumed by the transferee.

**14.2 Subordination.** This Sublease is, and will at all times be, subject and subordinate to the Prime Lease and each ground lease, mortgage, deed to secure debt or deed of trust now or later encumbering the Premises, Building or any other portion of the Project, including each renewal, modification, supplement, amendment, consolidation or replacement thereof (each, an "Encumbrance"). At Sublandlord's request, Subtenant will, without charge, promptly execute, acknowledge and deliver to Sublandlord (or, at Sublandlord's request, the Encumbrance holder) any instrument reasonably necessary to evidence this subordination. Notwithstanding the foregoing, each Encumbrance holder may unilaterally elect to subordinate its Encumbrance to this Sublease.

**14.3 Attornment.** Subtenant will automatically attorn to any transferee of Sublandlord's interest in the Project that succeeds Sublandlord by reason of a termination, foreclosure or enforcement proceeding of an Encumbrance, or by delivery of a deed in lieu of any foreclosure or proceeding (a "Successor Sublandlord"). In this event, the Sublease will continue in full force and effect as a direct lease between the Successor Sublandlord and Subtenant on all of the terms of this Sublease, except that the Successor Sublandlord shall not be:

- (a) Liable for any obligation of Sublandlord under this Sublease, or be subject to any counterclaim, defense or offset accruing before Successor Sublandlord succeeds to Sublandlord's interest;
- (b) Bound by any modification or amendment of this Sublease made without Successor Sublandlord's consent;
- (c) Bound by any prepayment of more than one Month's Rent; or
- (d) Obligated to perform any improvements to the Premises (or provide an allowance therefor). Upon Successor Sublandlord's request, Subtenant will, without charge, promptly execute, acknowledge and deliver to Successor Sublandlord any instrument reasonably necessary or required to evidence such attornment.

**14.4 Estoppel Certificate.** Within 10 days after receipt of Sublandlord's written request, Subtenant (and each guarantor and transferee of an interest in the Sublease) will execute, acknowledge and deliver to Sublandlord a certificate upon which Sublandlord and each existing or prospective Encumbrance holder may rely confirming the following (or any exceptions to the following):

- (a) The Commencement Date and Expiration Date;

- (b) The documents that constitute the Sublease, and that the Sublease is unmodified and in full force and effect;
- (c) The date through which Base Rent, Additional Rent, and other Rent has been paid;
- (d) That neither Sublandlord nor Subtenant is in default of this Sublease;
- (e) That Sublandlord has satisfied all Sublease obligations to improve the Premises (or provide Subtenant an allowance therefor) and Subtenant has accepted the Premises;
- (f) That Subtenant solely occupies the Premises; and
- (g) Such other matters concerning this Sublease or Subtenant's occupancy that Sublandlord may reasonably require.

## 15. DEFAULT AND REMEDIES

**15.1 Subtenant's Default.** Subtenant is in default ("Default") of this Sublease if any of the following occur:

- (a) Subtenant fails to pay Rent when due, and the failure continues for 10 days after notice to Subtenant of the failure.
- (b) Subtenant fails to perform a non-monetary Sublease obligation and the failure continues for 20 days after notice to Subtenant of the failure, except that (1) In an emergency Sublandlord may require Subtenant to perform this obligation in a reasonable time of less than 20 days, or (2) If Subtenant begins performing this obligation within 20 days after notice to Subtenant of this failure, but it will reasonably take more than 20 days to complete performing the obligation, then Subtenant will have a reasonable amount of additional time to complete performing the obligation so long as Subtenant diligently pursues the performance of such obligation to completion.
- (c) Subtenant consummates a Transfer that violates Article 13.
- (d) Subtenant fails to discharge any attachment or levy on Subtenant's interest in this Sublease within 15 days after the attachment or levy encumbers this Sublease.
- (e) Subtenant fails to cause any of the following proceedings to be vacated or dismissed within 60 days after they are commenced: (1) the appointment of a receiver or trustee of the assets of Subtenant or any guarantor of this Sublease, (2) the voluntary or involuntary bankruptcy of Subtenant or any guarantor of this Sublease, or (3) any assignment for the benefit of creditors of the assets of Subtenant or any guarantor of this Sublease.
- (f) Subtenant vacates or abandons substantially all of the Premises.
- (g) Subtenant is named on the list of Specially Designated Nationals and Blocked Persons maintained by the Office of Foreign Assets Control of the United States Department of the Treasury or any such similar list maintained by the state or federal government.
- (h) A Default exists under the TEF Building Sublease.

**15.2 Remedies.** If Default occurs, Sublandlord shall have the rights and remedies set forth in this Sublease which shall be distinct, separate and cumulative and shall not operate to exclude or deprive Sublandlord of any other right or remedy allowed it by law or at equity.

- (a) Sublandlord may terminate this Sublease by giving notice to Subtenant of Sublandlord's election to do so, in which event the Term of this Sublease shall end, and all right, title and interest of Subtenant hereunder shall expire, on the date stated in such notice. In no event shall either re-entry or the taking of possession of the Premises by Sublandlord be construed as an election by Sublandlord to terminate this Sublease. Written notice alone shall be proof of any such election by Sublandlord. No termination of this Sublease shall terminate Subtenant's obligations under this Sublease to pay Rent, which obligation shall survive such termination.
- (b) Sublandlord may terminate Subtenant's right to possession of the Premises without terminating this Sublease by giving notice to Subtenant that Subtenant's right to possession shall end on the date stated

in such notice, and all right of Subtenant to possession of the Premises or any part thereof shall cease on the date stated in such notice. An election by Sublandlord to terminate Subtenant's right to possession of the Premises without terminating the Sublease shall not preclude a subsequent election by Sublandlord to terminate the Sublease.

- (c) If Sublandlord terminates this Sublease as provided in Section 15.2 (a) or if Sublandlord terminates Subtenant's right to possession of the Premises as provided in Section 15.2(b), (1) Subtenant shall surrender possession, vacate the Premises and immediately deliver possession to Sublandlord; and (2) Sublandlord may, with due process of law, re-enter and take possession of the Premises without being liable for prosecution for such action or being deemed guilty of any manner of trespass, and without diminishing any remedies for collection of Rent and without relinquishing any other right of Sublandlord.
- (d) Sublandlord may enforce the provisions of this Sublease and may enforce and protect the rights of Sublandlord by a suit or suits in equity or at law for the specific performance of any covenant or agreement contained in this Sublease, or for the enforcement of any other appropriate legal or equitable remedy, including recovery of all moneys due or to become due from Subtenant under any of the provisions of this Sublease.
- (e) Sublandlord may, but shall not be obligated to, cure Subtenant's Default by making any payment or performing such other act to the extent Sublandlord may deem desirable. Any such cure by Sublandlord shall be without notice and shall not waive or release Subtenant from any obligation under this Sublease. Subtenant covenants and agrees to pay Sublandlord, upon demand, all advances, costs and expenses incurred by Sublandlord in connection with such cure, including reasonable attorney's fees, together with interest at the Default Rate, from the date such are incurred by Sublandlord to the date of payment to Sublandlord.
- (f) Sublandlord may, without liability to Subtenant or any other party and without constituting a constructive or actual eviction, suspend or discontinue furnishing or rendering to Subtenant any property, material, labor, utilities or other service, wherever Sublandlord is obligated to furnish or render the same so long as a Default exists under this Sublease.

**15.3 Remedies for Recovery of Rent and Damages.**

- (a) If Sublandlord terminates the right of Subtenant to possession of the Premises pursuant to Section 15.2, regardless of whether Sublandlord previously terminated or subsequently terminates this Sublease:
  - (1) Sublandlord shall be entitled to recover any and all Rent due and unpaid as of the date of repossession by Sublandlord. Subtenant shall immediately pay to Sublandlord all such Rent.
  - (2) Sublandlord shall be entitled to recover in one lump sum payment all unpaid Rent which would have accrued after the date of possession for the remainder of the then current Term (or if this Sublease has been terminated, what would have been the remainder of the then current Term but for such termination). For purposes of computing the amount of Rent hereunder that would have accrued after the date of repossession by Sublandlord, Taxes shall be calculated based on the average rate of increase, if any, in Taxes from the Commencement Date through the date of repossession. Subtenant shall immediately pay to Sublandlord all such Rent.
  - (3) Subtenant shall, upon demand, reimburse Sublandlord, with interest at the Default Rate from the date incurred through the date of payment to Sublandlord, the following: Repossession Expenses and Enforcement Costs.
- (b) Sublandlord shall not be required to mitigate any of its damages hereunder. If any law shall validly limit the amount of any damages provided for herein to an amount which is less than the amount agreed to herein, Sublandlord shall be entitled to the maximum amount available under such law.



#### **15.4 Definitions.**

- (a) "Enforcement Costs" shall be all sums, costs, expenses and damages (in addition to Repossession Expenses and including reasonable attorneys' fees) which are incurred by Sublandlord in enforcing Subtenant's obligations under this Sublease or by reason of Subtenant's Default, including without limitation, those arising out of any action brought by Sublandlord against Subtenant to interpret any provision of this Sublease or in connection with a bankruptcy or an assignment for the benefit of creditors.
- (b) "Repossession Expenses" are such costs and expenses including, without limitation, reasonable attorneys' fees which Sublandlord may incur, as Sublandlord considers appropriate, in order to recover possession of the Premises.
- (c) Reasonable attorneys' fees shall include the value of services provided by counsel employed by Sublandlord or its Affiliates in the amount that Sublandlord would have reasonably incurred if the services had been performed by unaffiliated counsel.

**15.5 Interest.** If Subtenant at any time fails to make any payment of Rent or of any amounts owed under this Sublease, Sublandlord may recover interest on such amounts at the rate per annum equal to the Prime Rate plus 5% per annum, but in no event in excess of the maximum interest rate permitted by law ("Default Rate"), from the date each amount is due until paid by Subtenant.

**15.6 Waivers.** Sublandlord and Subtenant expressly waive any right to trial by jury with respect to any proceeding pertaining to this Sublease. No waiver by Sublandlord of any Default of Subtenant shall be implied to affect, and no express waiver shall affect, any Default other than the Default specified in such waiver and that only for the time and to the extent stated.

**15.7 Force Majeure.** "Force Majeure" means any cause or event beyond the reasonable control of a party to this Sublease, including any act of God, government act or restriction, labor disturbance, general shortage of materials or supplies, riot, insurrection, or act of war or terrorism. Force Majeure excuses a party from performing any non-monetary Sublease obligation for a commercially reasonable time.

#### **15.8 Sublandlord's Default and Remedies.**

- (a) Sublandlord will be in "Default" of this Sublease if Sublandlord fails to perform any Sublease obligation of Sublandlord and this failure continues for 30 days after Subtenant notifies Sublandlord of such failure, or such longer period of time as is reasonable if more than 30 days is reasonably required to perform this obligation if performance commences within this 30-day period and is diligently prosecuted to completion.
- (b) If Sublandlord is in Default, then Subtenant may exercise any remedy available under law that is not waived or limited under this Sublease, subject to the following:
  - (1) Subtenant may not terminate this Sublease due to any Sublandlord Default.
  - (2) Sublandlord's liability under this Sublease is limited to Sublandlord's interest in the Project.
  - (3) No liability under this Sublease is assumed by Sublandlord's Affiliates.

### **16. MISCELLANEOUS**

**16.1 Rules and Regulations.** Subtenant will comply with the Rules and Regulations attached as **Exhibit C**. Sublandlord may reasonably modify or add to the Rules and Regulations upon notice to Subtenant. If the Rules and Regulations conflict with this Sublease, the Sublease shall govern.

**16.2 Notice.** Notice to Sublandlord must be given to Sublandlord's Notice Addresses. Notice to Subtenant must be given to Subtenant's Notice Addresses. By notice to the other, either party may change its Notice Address. Each notice must be in writing and will be validly given if either: (a) the notice is personally delivered and receipt is acknowledged in writing; or (b) the notice is delivered by a nationally recognized overnight courier service (e.g., FedEx or Airborne Express) and receipt is acknowledged in writing. If the party to receive notice fails to either accept delivery or acknowledge its receipt in writing, then notice may be validly given by mailing the notice first-class, certified or

registered mail, postage prepaid, and the notice will be deemed received by the party 2 business days after the deposit of the notice in the U.S. Mail.

**16.3 Intentionally Omitted.**

**16.4 Building Name.** Subtenant shall not use the Building's name or image for any purpose, other than Subtenant's address, without Sublandlord's approval, which approval shall not be unreasonably withheld. Sublandlord may change the name of the Building without any obligation or liability to Subtenant.

**16.5 Entire Agreement.** This Sublease is deemed integrated and contains all of each party's representations, waivers and obligations. The parties may only modify or amend this Sublease in a writing that is fully executed and delivered by each party.

**16.6 Successors.** Unless provided to the contrary elsewhere in this Sublease, this Sublease binds and inures to the benefit of each party's heirs, successors and permitted assignees.

**16.7 No Waiver.** A party's waiver of a breach of this Sublease will not be considered a waiver of any other breach. No custom or practice that develops between the parties will prevent either party from requiring strict performance of the terms of this Sublease. No Sublease provision or act of a party creates any relationship between the parties other than that of sublandlord and subtenant.

**16.8 Independent Covenants.** The covenants of this Sublease are independent. A court's declaration that any part of this Sublease is invalid, void or illegal will not impair or invalidate the remaining parts of this Sublease, which will remain in full force and effect.

**16.9 Captions.** The use of captions, headings, boldface, italics or underlining is for convenience only, and will not affect the interpretation of this Sublease.

**16.10 Authority.**

- (a) Individuals signing this Sublease on behalf of Subtenant represent and warrant that they are authorized to bind Subtenant to this Sublease, and that Subtenant is qualified to do business in the State of Michigan. If required by Sublandlord, Subtenant will, at Subtenant's cost, provide Sublandlord with a corporate resolution or other documentation acceptable to Sublandlord proving the authority of each individual signatory to bind Subtenant to this Sublease.
- (b) Subtenant represents and warrants to Sublandlord that Subtenant is not named on the list of **Specially Designated Nationals and Blocked Persons** maintained by the Office of Foreign Assets Control of the United States Department of the Treasury or any such similar list maintained by the state or federal government.
- (c) Subtenant represents and warrants to Sublandlord that any individual or entity involved in this Sublease transaction on behalf of Subtenant is not named on the list of **Specially Designated Nationals and Blocked Persons** maintained by the Office of Foreign Assets Control of the United States Department of the Treasury or any such similar list maintained by the state or federal government.

**16.11 Applicable Law.** The laws of Michigan govern this Sublease. In any action brought under this Sublease, Subtenant submits to the jurisdiction of the courts of the State of Michigan, and to venue in the County of Wayne.

**16.12 Confidentiality.** Subtenant will not record this Sublease or a memorandum of this Sublease without Sublandlord's written consent. Subtenant will keep the terms of this Sublease confidential and, unless required by law, may not disclose the terms of this Sublease to anyone other than Subtenant's Affiliates to the extent necessary to Subtenant's business.

**16.13 Reasonableness.** Subtenant's sole remedy for any claim against Sublandlord that Sublandlord has unreasonably withheld or unreasonably delayed any consent or approval shall be an action for injunctive or declaratory relief, it being acknowledged and agreed that no such claim may be asserted against Sublandlord except where Sublandlord has expressly agreed in this Sublease that it may not unreasonably withhold or delay its consent or approval.

**16.14 Time.** Time is of the essence as to all provisions in this Sublease in which time is a factor.

**16.15 Quiet Enjoyment.** So long as Subtenant is not in default of this Sublease and except as provided in the Sublease, Sublandlord will not interfere with Subtenant's peaceful and quiet enjoyment of the Premises for the Term. Sublandlord is not liable for, and Subtenant will not be released from any obligation under this Sublease because of any interference with Subtenant's peaceful and quiet enjoyment of the Premises that is caused by any other person, including other subtenants.

**16.16 Right to Enter Premises.** Sublandlord may enter the Premises at any reasonable time to inspect the Premises, to show the Premises to prospective lenders, purchasers, assignees or subtenants, to perform Sublandlord's duties under this Sublease, or to exercise Sublandlord's rights under §8.2. In connection with any permitted entry to perform Sublandlord's duties or exercise Sublandlord's rights under §8.2, Sublandlord may erect and use structures reasonably required by the nature of the work (including scaffolding, pipes and conduits), and may open or penetrate the Building Structure, Project Mechanical Systems or any Leasehold Improvements. If any Leasehold Improvements are damaged by Sublandlord as a result of Sublandlord exercising its rights under this §16.16, then Sublandlord will repair or replace the damaged portion, only, to match the original as nearly as is commercially reasonable.

**16.17 Exhibits.** The exhibits attached to this Sublease are incorporated herein. If any exhibit is inconsistent with the terms of this Sublease, the provisions of the Exhibit will govern. The Exhibits to this Sublease are:

- EXHIBIT A      Location of Premises
- EXHIBIT B      Legal Description of Project
- EXHIBIT C      Rules and Regulations
- EXHIBIT D      Intentionally Deleted
- EXHIBIT E      Notice of Sublease Term
- EXHIBIT F      Work Letter

## **17. RENEWAL OPTION**

Subtenant shall have the option to renew this Sublease (the "Renewal Option") for one additional term of ninety (90) years (the "Renewal Term") upon the same terms, covenants and conditions as are contained in this Sublease except that the Base Rent for the Renewal Term shall be equal to the fair market rental value of the Premises as determined as of the date the Renewal Option is exercised, and the entire Base Rent for the entire Renewal Term, discounted to present value using a discount rate as determined as of the date the Renewal Option is exercised, shall be payable in full, in one lump sum payment, on the date the Renewal Term commences. Subtenant must exercise the Renewal Option by giving written notice thereof to Sublandlord at least twelve (12) months, and not more than fifteen (15) months, prior to the expiration of the initial term of this Sublease (the "Notice"). The Notice shall be effective only if (a) on the date the Notice is given no Default exists and (b) Subtenant exercises the option to renew the TEF Building Sublease pursuant to the terms thereof.

If Sublandlord and Subtenant fail to agree in writing on the fair market rental value of the Premises within thirty (30) days after Subtenant gives the Notice, each of the parties shall, within fifteen (15) days after the expiration of such thirty (30) day period, select a licensed Michigan real estate broker who shall have been active during the five year period ending on the date of selection in the leasing of commercial properties in the Detroit metropolitan area. Each broker shall deliver to both parties its written determination of the fair market rental value of the Premises within thirty (30) days after its selection. If the written determination which provides for the greater fair market value is not greater than the other determination by more than ten percent (10%), the fair market rental value of the Premises shall be the average of the two determinations, which shall be final and binding upon the parties hereto. If the written determination which provides for a greater fair market rental value is more than ten percent (10%) greater than the other written determination, each of the brokers shall jointly select a similar experienced real estate broker who shall, within thirty (30) days after its selection, determine the fair market rental value of the Premises, which determination shall be final and binding upon the parties hereto. Each party shall bear the cost of the real estate broker selected by it and the costs of the third broker, if any, shall be borne equally by the parties.

If Sublandlord and Subtenant fail to agree in writing on the discount rate within thirty (30) days after Subtenant gives the Notice, each of the parties shall, within fifteen (15) days after the expiration of such thirty (30) day period, select a licensed Michigan Certified Public Accountant ("CPA"). Each CPA shall deliver to both parties its written determination of the discount rate within thirty (30) days after its selection. If the written determination which provides

for the greater discount rate is not greater than the other determination by more than ten percent (10%), the discount rate shall be the average of the two determinations, which shall be final and binding upon the parties hereto. If the written determination which provides for a greater discount rate is more than ten percent (10%) greater than the other written determination, each of the CPAs shall jointly select a similar experienced CPA who shall, within thirty (30) days after its selection, determine the discount rate to be utilized in calculating the Base Rent for the Renewal Term, which determination shall be final and binding upon the parties hereto. Each party shall bear the cost of the CPA selected by it and the costs of the third CPA, if any, shall be borne equally by the parties.

**[SIGNATURE PAGE FOLLOWS]**

Having read and intending to be bound by the terms and provisions thereof, Sublandlord and Subtenant have executed this Sublease as of the Execution Date.

**SUBTENANT:**

**TEF-SIX, LLC, A MICHIGAN LIMITED  
LIABILITY COMPANY**

By: 

Name: Robert M. Thompson

Title: Manager

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**SUBLANDLORD:**

**ARGONAUT BUILDING MASTER  
TENANT LLC, A MICHIGAN LIMITED  
LIABILITY COMPANY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Having read and intending to be bound by the terms and provisions thereof, Sublandlord and Subtenant have executed this Sublease as of the Execution Date.

**SUBTENANT:**

**TEF-SIX, LLC, A MICHIGAN LIMITED  
LIABILITY COMPANY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**SUBLANDLORD:**

**ARGONAUT BUILDING MASTER  
TENANT LLC, A MICHIGAN LIMITED  
LIABILITY COMPANY**

By: 

Name: Anne D. Beck

Title: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_


Title: \_\_\_\_\_

[Sublease – Signature page]

**EXHIBIT A – LOCATION OF PREMISES**

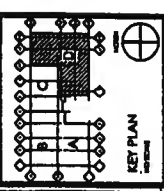
**Argonaut Building/Detroit, MI**

**Gymnasium**



**Kahn**  
 Albert Kahn Associates, Inc.  
 1000 Woodward Avenue  
 Detroit, Michigan 48226  
 Tel: (313) 487-1000  
 Fax: (313) 487-1001  
 E-Mail: kahn@kahn.com

Item No.	Description	Date
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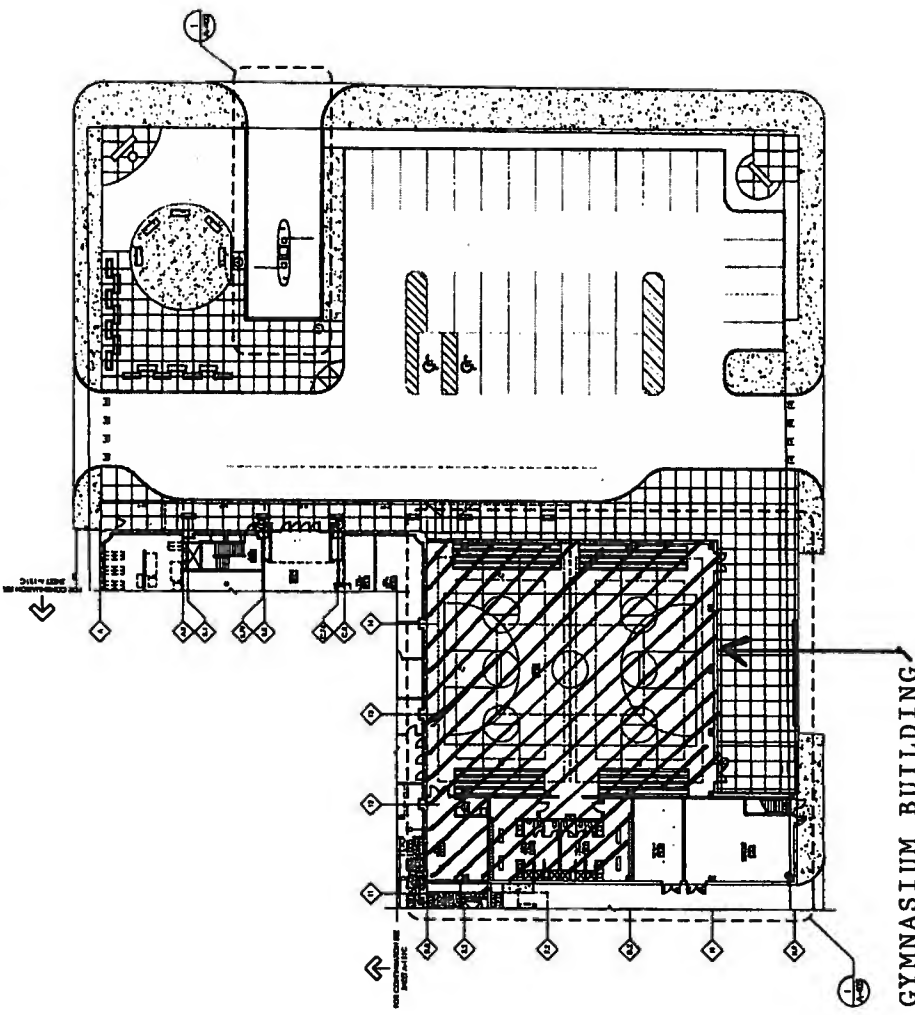
KEY PLAN  
 REFERENCE

College Air-Conditioning System

THE ARCHITECT  
 BUILDING REVENUE  
 DETROIT, MI

1000 Woodward Avenue  
 Detroit, Michigan 48226  
 Tel: (313) 487-1000  
 Fax: (313) 487-1001  
 E-Mail: kahn@kahn.com

1000 Woodward Avenue  
 Detroit, Michigan 48226  
 Tel: (313) 487-1000  
 Fax: (313) 487-1001  
 E-Mail: kahn@kahn.com



1/8" = 1'-0"  
 FIRST FLOOR PLAN - AREA D  
 SCALE 1/8" = 1'-0"

REVIEW ONLY NOT FOR CONSTRUCTION



## **EXHIBIT B - LEGAL DESCRIPTION OF PROJECT**

### **Argonaut Building/Detroit, MI**

#### **Argonaut Parcel**

Land situated in the City of Detroit, County of Wayne, State of Michigan described as follows:

Lots 27 through 60 inclusive, including the vacated alley (16 feet wide) lying adjacent to said lots of "Leavitt's Subdivision of that part of fractional Section 31, Town 1 South, Range 12 East, bounded by Milwaukee and Woodward Avenues, Grand Trunk Railroad and rear line of private claims and west line of said fractional Section 31 also Lots 8 to 17 both inclusive, part of Block 5 of Henry Weber's Subdivision of part of fractional Section 31 and 36 Town 1 South, Range 11 and 12 East and part of the Baker and Forsyth Farms" City of Detroit, Wayne County, Michigan as recorded in Liber 9 of Plats on Page 17, Wayne County Records and being more particularly described as follows: Beginning at the Southwesterly corner of Milwaukee Avenue (60 feet wide) and Cass Avenue (80 feet wide), said point being also the Northeasterly corner of Lot 27 of said "Leavitt's Subdivision" (Liber 9, Plats, Page 17, Wayne County Records); proceeding thence from said point of beginning South 26 degrees 18 minutes 49 seconds East, along the Westerly line of said Cass Avenue, said line being also the Easterly line of Lot 27, the Easterly end of a vacated alley (16 feet wide) and the Easterly line of Lot 60 of said "Leavitt's Subdivision", a measured distance of 231.07 feet (recorded 231.00 feet) to the Northwesterly corner of Baltimore Avenue (60 feet wide) and said Cass Avenue, said point being also the Southeasterly corner of said Lot 60; thence South 63 degrees 11 minutes 25 seconds West, along the Northerly line of said Baltimore Avenue, said line being also the Southerly line of Lots 60 through 44 inclusive of said subdivision, a measured distance of 522.05 feet (recorded 521.66 feet) to the Northeasterly corner of Second Avenue (80 feet wide) and said Baltimore Avenue, said point being also Southwesterly corner of said Lot 44; thence North 26 degrees 18 minutes 05 seconds West, along the Easterly line of said Second Avenue, said line being also the Westerly line of Lot 44, the Westerly end of said vacated alley and the Westerly line of Lot 43 of said subdivision, a measured distance of 231.07 feet (recorded 231.00 feet) to the Southeasterly corner of said Milwaukee and Second Avenue, said point being also the Northwesterly corner of said Lot 43; thence North 63 degrees 11 minutes 25 seconds East, along the Southerly line of said Milwaukee Avenue, said line being also the Northerly line of Lots 43 through 27 inclusive, a measured distance of 522.00 feet (described 521.66 feet) to the point of beginning.

#### **Second and Baltimore Parcel**

Land situated in the City of Detroit, County of Wayne, State of Michigan, described as follows:

Lots 116 and 117 of "Leavitt's Subdivision of that part of fractional Section 31, Town 1 South, Range 12 East", City of Detroit, Wayne County, Michigan as recorded in Liber 9 of Plats on Page 17, Wayne County Records and being more particularly described as follows: Beginning at the Southeasterly corner of Lot 117 of said "Leavitt's Subdivision" (Liber 9, Plats, Page 17, Wayne County Records), said point being also the Northwesterly corner of Baltimore Avenue (60 feet wide) and Second Avenue (80 feet wide); proceeding thence from said point of beginning South 63 degrees 11 minutes 00 seconds West, along the Northerly line of said Baltimore Avenue, said line being also the Southerly line of Lots 117 and 116 of said subdivision, a measured distance of 72.31 feet (recorded 72.15 feet) to the Southwesterly corner of said Lot 116; thence North 26 degrees 13 minutes 50 seconds West, along the Westerly line of said Lot 116, a distance of 107.50 feet to the Northwesterly corner of said lot; thence North 63 degrees 11 minutes 00 seconds East, along the Southerly line of a public alley (16 feet wide), said line being also the Northerly line of Lots 116 and 117 of said subdivision, a measured distance of 72.21 feet (recorded 72.15 feet) to the Northeasterly corner of said Lot 117; thence South 26 degrees 16 minutes 46 seconds East, along the Westerly line of said Second Avenue, said line being also the Easterly line of said Lot 117, a distance of 107.50 feet to the point of beginning.

## **EXHIBIT C – RULES & REGULATIONS**

### **Argonaut Building/Detroit, MI**

**“Rules and Regulations” mean the contents of this Exhibit C, as modified, amended or revoked by Sublandlord, from time to time.**

1. **Right to Exclude.** Sublandlord may require that Subtenant, its Affiliates and guests comply with each reasonable security measure that Sublandlord may establish as a condition for entry to the Premises, Building or Project. These measures may include submitting to a search by persons or devices employed by Sublandlord, presenting an identification card or pass issued by the government, Sublandlord, or both, being announced to Subtenant and accepted as a visitor by Subtenant, and signing a register on entry and exit. Any person who cannot comply with these requirements may be excluded from the Project. If Sublandlord requires a Building pass issued by Sublandlord as a condition of entry to the Premises, Building or Project, Sublandlord will furnish a Building pass to all persons reasonably designated by Subtenant in writing. Sublandlord may exclude or expel from the Project any person who, in Sublandlord's reasonable opinion, is intoxicated or under the influence of alcohol or drugs. Sublandlord may require Subtenant and its Affiliates and guests to enter and exit the Building from those entrances designated by Sublandlord from time to time.
2. **Obstructions.** Subtenant will not cause the Common Areas, or sidewalks or driveways outside the Building to be obstructed. Sublandlord may remove, at Subtenant's expense, any such obstruction without prior notice to Subtenant.
3. **Trash.** Subtenant will place trash in proper receptacles in the Premises provided by Subtenant at Subtenant's cost, or in Building receptacles designated by Sublandlord. Subtenant may not litter in the Common Areas, or sidewalks or driveways outside the Building.
4. **Public Safety.** Subtenant will not throw anything out of doors, windows or skylights, down passageways or over walls. Subtenant will not use any fire exits or stairways in the Building except in case of emergency.
5. **Keys and Locks.** Sublandlord may from time to time install and change locks on entrances to the Project, Building, Common Areas or Premises, and will provide Subtenant a number of keys to meet Subtenant's reasonable requirements. Additional keys will be furnished by Sublandlord at Subtenant's cost. At the end of the Term, Subtenant will promptly return to Sublandlord all keys for the Building and Premises issued by Sublandlord to Subtenant. Unless Subtenant obtains Sublandlord's prior written consent, Subtenant will not add or change any locks on any door to, in or about the Premises. If with Sublandlord's consent, Subtenant installs any lock incompatible with the Building master locking system, Subtenant will: relieve Sublandlord of each Sublease obligation that requires access to each affected area; indemnify Sublandlord against any Claims resulting from forced entry to each affected area in an emergency; and, at the end of the Term, remove each incompatible lock and replace it with a Building Standard lock at Subtenant's expense.
6. **Aesthetics.** Unless Subtenant obtains Sublandlord's prior written consent (which may be withheld in Sublandlord's sole and absolute discretion), Subtenant may not:
  - (a) Attach any awnings, signs, displays or projections to either the outside walls or windows of the Building, or to any part of the Premises visible from outside the Premises;
  - (b) Hang any non-Building Standard curtains, blinds, shades or screens in any window or door of the Premises;
  - (c) Coat or sunscreen the interior or exterior of any windows; or
  - (d) Place any objects on windowsills.
7. **HVAC Operation.** Subtenant will not obstruct the HVAC convectors or diffusers, or adjust or interfere with the HVAC system. Subtenant will assist the HVAC system in maintaining comfort in the Premises by drawing shades, blinds and other window coverings in the Premises as may be reasonably required. Subtenant may not use any method of heating or cooling the Premises other than that supplied by Sublandlord.
8. **Plumbing.** Subtenant will use plumbing fixtures only for the purpose for which they are constructed. Subtenant will reimburse Sublandlord for any damage caused by Subtenant's misuse of plumbing fixtures.

9. **Equipment Location.** Sublandlord may specify the location of any of Subtenant's business machines, mechanical equipment or other property that are unusually heavy, may damage the Building, or may cause vibration, noise or annoyance to other subtenants. Subtenant will reimburse Sublandlord for any professional engineering certification or assistance reasonably required to determine the location of these items.

10. **Bicycles.** Subtenant may not bring bicycles or other vehicles into the Building or Premises except, to the extent permitted by the Sublease, for the parking of Vehicles in the parking spaces located within the basement of the Building. Bicycles and other vehicles may only be parked in areas designated by Sublandlord.

11. **Animals.** Subtenant may not bring any birds or animals, excepting seeing-eye/assistance dogs, into the Building or Premises.

12. **Carpet Protection.** To protect carpeting in the Premises, Subtenant will, at its own expense, install and maintain pads to protect the carpet under all furniture having castors other than carpet castors.

13. **Elevators.** Any use of the elevators for purposes other than normal passenger use (such as moving to or from the Building or delivering freight), whether during or after business hours, must be scheduled through the office of the Property Manager or if no Property Manager exists, through Sublandlord. Subtenant will reimburse Sublandlord for any extra costs incurred by Sublandlord in connection with any such non-passenger use of the elevators.

14. **Moving and Deliveries.** Subtenant's movers are subject to Sublandlord's reasonable approval. Moving of Subtenant's Personal Property and deliveries of materials and supplies to the Premises must be made during the times and through the entrances, elevators and corridors reasonably designated by Sublandlord. Moving and deliveries may not be made through any of the main entrances to the Building without Sublandlord's prior permission. Any hand truck or other conveyance used in the Common Areas must be equipped with rubber tires and rubber side guards to prevent damage to the Building and its property. Subtenant will promptly reimburse Sublandlord for the cost of repairing any damage to the Building or its property caused by any person making deliveries to the Premises.

15. **Solicitation.** Canvassing, soliciting and peddling in the Project are prohibited and Subtenant will cooperate in preventing the same.

16. **Food.** Only persons approved from time to time by Sublandlord may prepare, solicit orders for, sell, serve or distribute food in or around the Project. Except as may be specified in the Sublease or on construction drawings for the Premises approved by Sublandlord, and except for microwave cooking, Subtenant will not use the Premises for preparing or dispensing food, or soliciting of orders for sale, serving or distribution of food.

17. **Work Orders.** Only authorized representatives of Subtenant may request services or work on behalf of Subtenant. Subtenant may not request that Building employees perform any work outside of their duties assigned by Sublandlord.

18. **Smoking.** Neither Subtenant nor its Affiliates shall smoke or permit smoking in any part of the Premises or Building. In addition, neither Subtenant nor its Affiliates shall smoke or permit smoking in any part of the Project located outside of the Building in which Sublandlord, in Sublandlord's sole discretion, prohibits smoking or in which smoking is prohibited by law. Sublandlord may designate the entire Project a no-smoking area.

19. **Space Heaters.** No space heaters or similar devices may be used within the Premises without Sublandlord's consent.

20. **Rules Applied.** These Rules and Regulations apply equally to Subtenant's Affiliates and others permitted by Subtenant to access, use or occupy the Premises.

**EXHIBIT D – INTENTIONALLY DELETED**

**Argonaut Building/Detroit, MI**

**EXHIBIT E – NOTICE OF SUBLEASE TERM**  
**Argonaut Building/Detroit, MI**

This NOTICE OF SUBLEASE TERM, NLT, is given by TEF-Six, LLC, Subtenant, to Argonaut Building Master Tenant LLC, Sublandlord, with respect to that certain Sublease dated \_\_\_\_\_, Sublease, under which Subtenant has leased from Sublandlord a gymnasium building located adjacent to the Argonaut Building.

In consideration of the mutual covenants and agreements stated in the Sublease, and intending that this Agreement may be relied upon by Sublandlord and any prospective purchaser or present or prospective Encumbrance holder, Subtenant certifies and confirms the following:

- (a) The Commencement Date is \_\_\_\_\_, 20\_\_.
- (b) The Expiration Date is \_\_\_\_\_, 20\_\_.

Except for those terms expressly defined in this NLT, all initially capitalized terms will have the meanings stated for such terms in the Sublease.

EXECUTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 200\_\_.

**{SUBTENANT}**

By: \_\_\_\_\_  
Print: \_\_\_\_\_  
Title: \_\_\_\_\_

**{SUBLANDLORD}**

By: \_\_\_\_\_  
Print: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT F – WORK LETTER**  
**(TURNKEY-SUBLANDLORD PREPARES CONSTRUCTION DOCUMENTS)**

**Argonaut Building/Detroit, MI**  
**Gymnasium**

1. **Conflicts; Terms.** If there is any conflict or inconsistency between the provisions of the Sublease and those of this Exhibit F ("Work Letter"), the provisions of this Work Letter will control. Except for those terms expressly defined in this Work Letter, all initially capitalized terms will have the meanings stated for such terms in the Sublease. The following terms, which are not defined in the Sublease, have the meanings indicated:

(a) "Sublandlord's Representative" means Adriana Calderon, or such other person as may be designated by Sublandlord from time to time.

(b) "Subtenant's Representative" means John Cleary, or such other person as may be designated by Subtenant from time to time.

(c) "Tenant Improvements" means the gymnasium building and all other alterations, improvements and installations to be constructed or installed by Sublandlord according to this Work Letter. In no event will the Tenant Improvements include any furniture, fixtures or equipment (including telecommunications and security system cabling and equipment) except for any equipment expressly provided for in the Construction Documents approved by Sublandlord, as the same may be revised from time to time with the approval of Sublandlord.

(d) "Preliminary Plans" means those preliminary plans and specifications for the Tenant Improvements to be prepared by Sublandlord's architect and approved by Sublandlord and Subtenant.

(e) "Construction Documents" means complete construction plans and specifications for the Tenant Improvements.

(f) "Total Cost" means the total cost of preparing and revising the Preliminary Plans and Construction Documents, obtaining all necessary permits, constructing and installing the Tenant Improvements (including any changes or additional work pursuant to Change Orders), providing any services required during construction (such as electricity and other utilities, refuse removal and housekeeping), and the cost of construction administration or management services provided by a third party or parties.

2. **Sublandlord's Obligations.** Sublandlord will proceed to complete the Premises according to this Work Letter and tender possession of the Premises to Subtenant when the Tenant Improvements have been completed to the extent that only minor construction details, which would not materially interfere with Subtenant's use and enjoyment of the Premises, require completion or correction ("Substantially Completed or Substantial Completion"). Subtenant will accept the Premises when Sublandlord tenders possession, provided that the Tenant Improvements have been Substantially Completed, and provided further that Subtenant will not be required to accept possession prior to the Scheduled Commencement Date. Sublandlord and Subtenant agree that all Tenant Improvements, whether paid for by Sublandlord or Subtenant, will, without compensation to Subtenant, become Sublandlord's property upon installation and will remain Sublandlord's property at the expiration or earlier termination of the Term. If Subtenant reasonably objects to Sublandlord's determination that Substantial Completion has occurred, Sublandlord and Subtenant shall, acting reasonably and in good faith, attempt to agree on whether Substantial Completion has occurred. If Sublandlord and Subtenant cannot so agree, Sublandlord's architect and a person retained or appointed by Subtenant who has experience in construction matters will, acting reasonably and in good faith, attempt to agree on whether Substantial Completion has occurred. If Sublandlord's architect and such person cannot agree on whether Substantial Completion has occurred, the parties agree to submit the issue for resolution by arbitration in accordance with the Construction Industry Arbitration

Rules of the American Arbitration Association then in effect. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

3. **Punch List.** Subtenant's taking possession of any portion of the Premises will be conclusive evidence that such portion of the Premises was in good order and satisfactory condition when Subtenant took possession, except as to any patent defects identified on a punch list prepared and signed by Sublandlord's Representative and Subtenant's Representative after an inspection of the Premises by both such parties when Subtenant takes possession, and except as to any latent defects of which Subtenant notifies Sublandlord in writing within one year after the Commencement Date. If Subtenant and Sublandlord cannot, acting reasonably and in good faith, agree upon the defects to be identified in such punchlist, such dispute shall be resolved in accordance with the procedures set forth in Section 2 above for resolving a dispute over whether Substantial Completion has occurred. Failure to advise Sublandlord in writing within one year of the Commencement Date of any latent defects shall result in a waiver of any claims regarding said defects by Subtenant. Sublandlord will not be responsible for any items of damage caused by Subtenant, its agents, independent contractors or suppliers. No promises to alter, remodel or improve the Premises or Project and no representations concerning the condition of the Premises or Project have been made by Sublandlord to Subtenant other than as may be expressly stated in the Sublease (including this Work Letter).

4. **Representatives.** Sublandlord appoints Sublandlord's Representative to act for Sublandlord in all matters covered by this Work Letter. Subtenant appoints Subtenant's Representative to act for Subtenant in all matters covered by this Work Letter. All inquiries, requests, instructions, authorizations and other communications with respect to the matters covered by this Work Letter will be made to Sublandlord's Representative or Subtenant's Representative, as the case may be. Subtenant will not make any inquiries of or request to, and will not give any instructions or authorizations to, any other employee or agent of Sublandlord, including Sublandlord's architect, engineers and contractors or any of their agents or employees, with regard to matters covered by this Work Letter. Either party may change its Representative under this Work Letter at any time by prior written notice to the other party.

5. **Construction Documents; Construction of Tenant Improvements.** Promptly after full execution and delivery of the Lease, Sublandlord will cause its architect to prepare the Preliminary Plans. After approval of the Preliminary Plans by Sublandlord and Subtenant, Sublandlord will cause its Architect to prepare the Construction Documents based strictly on the Preliminary Plans unless otherwise agreed to by Sublandlord and Subtenant or as otherwise provided below. The Construction Documents will be subject to Sublandlord's approval and, prior to the commencement of construction, Subtenant will be given an opportunity to review the Construction Documents to confirm that, except as otherwise provided below, they conform to the Preliminary Plans. Subtenant acknowledges that the Tenant Improvements will be designed and the Preliminary Plans and Construction Documents prepared with the intent and goal that the Total Cost not exceed \$2,140,000. Notwithstanding anything to the contrary contained herein if, based on one or more bids for the construction and installation of the Tenant Improvements according to the Construction Documents, Sublandlord determines that the Total Cost will exceed \$2,140,000, Sublandlord may cause the Construction Documents to be revised so as to reduce the Total Cost, which revised Construction Documents shall be subject to the approval of Sublandlord. Once the Construction Documents have been so approved, reviewed and confirmed, or revised and approved as provided in the immediately preceding sentence, Sublandlord will, at its expense, cause the Tenant Improvements shown on the Construction Documents to be constructed or installed in the Premises on a "turnkey" basis, in a good and workmanlike manner, substantially in accordance with the Construction Documents approved by Sublandlord and in accordance with all applicable laws. However, if Subtenant requests any changes to the Construction Documents (other than changes required to, except as otherwise provided above, make the same conform to the Preliminary Plans), and if such changes result in an increase in the cost of constructing or installing the Tenant Improvements, then Subtenant will pay for such increase within ten (10) days after receipt of Sublandlord's invoice.

6. **Change Orders.** Subtenant's Representative may authorize changes in the work (including work in addition to the Tenant Improvements) during construction only by written instructions to Sublandlord's Representative on a form approved by Sublandlord. All such changes will be subject to Sublandlord's prior written approval according to Paragraph 7 below. Prior to commencing any change, Sublandlord will prepare and deliver to Subtenant, for Subtenant's approval, a change order ("Change Order"), identifying the total cost of such change, which will include associated architectural, engineering and construction contractor's and manager's fees. If Subtenant fails to approve such Change Order within five (5) business days after delivery by Sublandlord, Subtenant will be deemed to have withdrawn the proposed change and Sublandlord will not proceed to perform the change. Upon Sublandlord's receipt of Subtenant's approval and payment of the total cost of such Change Order (a "Change Order Payment"), Sublandlord

will proceed to perform the change. Subtenant will pay the total cost of any Change Orders within 10 days of its approval of same.

**7. Sublandlord's Approval.** All Construction Documents and Change Orders, and any drawings, plans and specifications for any changes or additions reflected in Change Orders or any other improvements or installations in the Premises, are expressly subject to Sublandlord's prior written approval. Sublandlord may withhold its approval of any such items that require work which:

- (a) exceeds or adversely affects the capacity or integrity of the Building Structure, Project Mechanical Systems or Premises Mechanical Systems;
- (b) is not approved by the holder of any Encumbrance;
- (c) would not be approved by a prudent owner of property similar to the Premises, Building or Project;
- (d) violates any agreement which affects the Project or binds Sublandlord;
- (e) Sublandlord reasonably believes will increase the cost of operating or maintaining any of the Project Mechanical Systems or Premises Mechanical Systems;
- (f) Sublandlord reasonably believes will reduce the market value of the Premises or the Project at the end of the Term;
- (g) does not conform to applicable building code or is not approved by any governmental authority having jurisdiction over the Premises;
- (h) does not meet or exceed Building Standard; or
- (i) Landlord reasonably believes will infringe on the architectural or historical integrity of the Premises or Project.

**8. Subtenant's Delays.** As provided in Section 3.1 of the Sublease, the Term of the Sublease (and therefore Subtenant's obligation for the payment of Rent) will not commence until Sublandlord has Substantially Completed all work to be performed by Sublandlord as stated in Paragraph 2 above; provided, however, that if Sublandlord is delayed in Substantially Completing such work as a result of:

- (a) any Subtenant delays described in Paragraphs 5, 6 or 7 above;
- (b) Subtenant's request for materials or installations as a part of the Tenant Improvements that are other than Building standard materials or installations that take longer to process or install than Building Standard materials or installation;
- (c) any Change Orders or changes in any drawings, plans or specifications requested by Subtenant;
- (d) Subtenant's failure to review or approve in a timely manner any item requiring Subtenant's review or approval;
- (e) performance of any work reflected in Change Orders or any failure to complete or delay in completion of such work; or
- (f) any other act or omission of Subtenant or Subtenant's architects, engineers, contractors or subcontractors (all of which will be deemed to be delays caused by Subtenant),

then the Commencement Date will only be extended under Section 3.1 of the Sublease until the date on which Sublandlord would have Substantially Completed the performance of such work but for such delays.



9. **General.** No approval by Sublandlord or Sublandlord's architect or engineer of any drawings, plans or specifications which are prepared in connection with construction of improvements in the Premises will constitute a representation or warranty by Sublandlord as to the adequacy or sufficiency of such drawings, plans or specifications, or the improvements to which they relate, for any use, purpose or condition, but such approval will merely be the consent of Sublandlord to the construction or installation of improvements in the Premises according to such drawings, plans or specifications. Failure by Subtenant to pay any amounts due under this Work Letter will have the same effect as failure to pay Rent under the Sublease, and such failure or Subtenant's failure to perform any of its other obligations under this Work Letter will constitute a Default under Section 15.1(a) of the Sublease, entitling Sublandlord to all of its remedies under the Sublease as well as all remedies otherwise available to Sublandlord.



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**TEF-SIX, LLC**  
**("Sublandlord")**

**CREATIVE URBAN EDUCATION, INC.**  
**("Subtenant")**

**GYMNASIUM**

**ARGONAUT BUILDING**

**SUBLEASE**

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## SUBLEASE

Sublandlord and Subtenant enter this Sublease ("Sublease") as of the Execution Date on the following terms, covenants, conditions and provisions:

### 1. BASIC SUBLEASE PROVISIONS

1.1 **Basic Sublease Definitions.** In this Sublease, the following defined terms have the meanings indicated.

- (a) Execution Date \_\_\_\_\_, 2008.
- (b) Sublandlord: TEF-Six, LLC, a Michigan limited liability company
- (c) Subtenant: Creative Urban Education, Inc., a Michigan non-profit corporation
- (d) Building: Argonaut Building – 465-485 West Milwaukee Avenue, Detroit, Michigan
- (e) Premises: The gymnasium building to be constructed pursuant to the Workletter attached hereto as Exhibit F. The building will be generally located as depicted on Exhibit A.
- (f) Use: Athletic and other uses customarily associated with a middle/high school gymnasium.
- (g) Scheduled Term: The period commencing on the Commencement Date (as defined in Section 3.1) and ending on the Expiration Date (as defined in Section 3.1 hereof).
- (h) Scheduled Commencement Date: July 17, 2009
- (i) Base Rent: The following amounts payable in accordance with Article 4:

Months	Annual Rate per RSF	Annual Base Rent	Monthly Base Rent
All Months (including any Partial Month) falling within the Term	\$0	\$0	\$0

- (j) Notice Address: For each party, the following address(es):

To Sublandlord	To Subtenant
TEF-Six, Inc. c/o Thompson Educational Foundation P.O. Box 6349 Plymouth, Michigan 48170 Attn: John G. Cleary  with a copy to:  Poling, McGaw & Poling, P.C. 5455 Corporate Drive, Suite 104 Troy, Michigan 48098 Attn: Douglas McGaw	Before the Commencement Date:  Creative Urban Education, Inc. c/o College for Creative Studies 201 E. Kirby Detroit, Michigan 48292-4034 Attn: Anne Beck, Vice President for Administration and Finance  After the Commencement Date:  Creative Urban Education, Inc. c/o College for Creative Studies 201 E. Kirby Detroit, Michigan 48292-4034

	Attn: Geoffrey Sleeman, Director of Facilities
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- (k) **Billing Address:** For each party, the following address:

For Sublandlord	For Subtenant
TEF-Six, LLC c/o Thompson Educational Foundation P.O. Box 6349 Plymouth, Michigan 48170 Attn: John G. Cleary	Creative Urban Education, Inc. c/o College for Creative Studies 201 E. Kirby Detroit, Michigan 48292-4034 Attn: Anne Beck, Vice President for Administration and Finance

- (l) **Parking Allotment** Intentionally Deleted
- (m) **Liability Limit:** \$5,000,000.00 for any one accident or occurrence.
- (n) **Prime Lease:** That certain lease of the Project entered into by Argonaut Campus Developer LLC, as Landlord (the holder of the Landlord's interest in the Prime Lease from time to time is referred to herein as the "Prime Landlord"), and Argonaut Building Master Tenant LLC, as Tenant (the holder of the Tenant's interest in the Prime Lease from time to time is referred to herein as the "Prime Sublandlord").
- (o) **Prime Sublease:** That certain sublease of the Premises entered into by Prime Sublandlord, as sublandlord, and Sublandlord, as subtenant, a copy of which is attached hereto as Exhibit G.

## 2. PROJECT

**2.1 Project.** The Land, Building and all other improvements now or hereafter located in or on the Land are collectively referred to as the "Project."

**2.2 Land.** "Land" means the parcels of real property described in Exhibit B, including easements and other rights that benefit or encumber the real property. The Land may be expanded or reduced after the Execution Date.

**2.3 Building Structure.** "Building Structure" means the structural components in the Premises, including foundations, floor and ceiling slabs, roofs, exterior walls, exterior glass and mullions, columns, beams, shafts, and emergency stairwells. The Building Structure excludes the Leasehold Improvements.

**2.4 Project Mechanical Systems.** "Project Mechanical Systems" means the mechanical, electronic, physical or informational systems generally serving the Premises or other portions of the Project, including the sprinkler, plumbing, heating, ventilating, air conditioning, lighting, communications, security, drainage, sewage, waste disposal, vertical transportation, and fire/life safety systems, but shall not include any portions of the foregoing systems that constitute Leasehold Improvements.

**2.5 Common Areas.** Subtenant will have a non-exclusive right to use the Common Areas subject to the terms of this Sublease. "Common Areas" means those interior and exterior common and public areas on the Land (and appurtenant easements) and in the Building designated by Prime Sublandlord from time to time for the non-exclusive use by Subtenant in common with Prime Sublandlord, Sublandlord, other subtenants and occupants, and their employees, agents and invitees. Notwithstanding the foregoing, Subtenant shall not have any right under this Sublease to use any parking facilities located within the Project.

**2.6 Premises.** Sublandlord subleases to Subtenant the Premises subject to the terms of this Sublease. Except as provided elsewhere in this Sublease, by taking possession of the Premises Subtenant accepts the Premises

in its "as is" condition and with all faults, and the Premises are deemed in good order, condition, and repair. The Premises includes the Building Structure and Leasehold Improvements, as follows, and all other improvements to the Premises:

- (a) **Leasehold Improvements.** "Leasehold Improvements" mean all non-structural improvements in the Premises or exclusively serving the Premises, and any structural improvements to the Premises made to accommodate Subtenant's particular use of the Premises. The Leasehold Improvements may exist in the Premises as of the Execution Date, or be installed by Prime Sublandlord or by Sublandlord or Subtenant under this Sublease at the cost of such party, including, but not limited to the work set forth in the attached Exhibit F ("Work Letter"). The Leasehold Improvements include but are not limited to: (1) interior walls and partitions (including those surrounding structural columns entirely or partly within the Premises); (2) the interior drywall on exterior structural walls; (3) stairways and stairwells connecting parts of the Premises on different floors, except those required for emergency exiting; (4) the frames, casements, doors, windows and openings installed in or on the improvements described in (1-3), or that provide entry/exit to/from the Premises; (5) all hardware, fixtures, cabinetry, railings, paneling, woodwork and finishes in the Premises or that are installed in or on the improvements described in (1-4); (6) if any part of the Premises is on the ground floor, the ground floor exterior windows (including mullions, frames and glass); (7) integrated ceiling systems (including grid, panels and lighting); (8) carpeting and other floor finishes; (9) rest room, showers, or other similar facilities that exclusively serve the Premises (including plumbing fixtures, toilets, sinks and built-in appliances); and (10) the sprinkler, plumbing, heating, ventilating, air conditioning, lighting, communications, security, drainage, sewage, waste disposal, vertical transportation, fire/life safety, and other mechanical, electronic, physical or informational systems located within or that exclusively serve the Premises, including the parts of each system that are connected to other such systems located within the Project from the common point of distribution for each system to and throughout the Premises (the "Premises Mechanical Systems").
- (b) **Exclusions from the Premises.** The Premises do not include any easements or rights to natural light, air or view.

**2.7 Building Standard.** "Building Standard" means the minimum or exclusive type, brand, quality or quantity of materials Prime Sublandlord designates for use in the Building from time to time.

**2.8 Subtenant's Personal Property.** "Subtenant's Personal Property" means those trade fixtures, furnishings, equipment, work product, inventory, stock-in-trade and other personal property of Subtenant that are not permanently affixed to the Project in a way that they become a part of the Project and will not, if removed, impair the value of the Premises that Subtenant is required to deliver to Sublandlord at the end of the Term under §3.3.

### **3. TERM**

**3.1 Term.** "Term" means the period that begins on the Commencement Date and ends on the Expiration Date, subject to renewal, extension or earlier termination as may be further provided in this Sublease.

"Month" means a full calendar month of the Term. If the Commencement Date does not fall on the first day of a month, the initial period from the Commencement Date to the last day of such month shall be the "Partial Month". Notwithstanding anything to the contrary contained in this Sublease, in the event of the termination of the Prime Sublease, that certain Sublease between Prime Sublandlord, as sublandlord, and Sublandlord, as subtenant, pertaining to certain space in the Building (the "TEF Building Sublease"), that certain Sublease between Sublandlord, as sublandlord, and Subtenant, as subtenant, pertaining to certain space in the Building (the "CUE Building Sublease"), or that certain Education Management Agreement contemplated to be entered into between Public School Academies of Detroit and Subtenant (the "Management Agreement") prior to the expiration or earlier termination of this Sublease, then this Sublease shall terminate simultaneously with the termination of the Prime Sublease, TEF Building Sublease, CUE Building Sublease or Management Agreement without any liability of Sublandlord to Subtenant; provided, however, that if this Sublease terminates because of the termination of the CUE Building Sublease but the CUE Building Sublease is automatically revived and reinstituted pursuant to Section 3.1 of the CUE Building Sublease, then this Sublease shall be automatically revived and reinstituted as of the same date that the CUE Building Sublease is revived and reconstituted. In addition, if the Management Agreement is not



entered into by PSAD and Subtenant by January 23, 2009, as such date may be extended in writing by Sublandlord and Subtenant, either party may terminate this Sublease by giving written notice to the other party at any time prior to the date the Management Agreement is entered into by PSAD and Subtenant and upon such termination, neither party shall have any further obligations or liabilities under this Sublease.

- (a) **Commencement Date.** The "Commencement Date" means the date that is the earlier of:
  - (1) The day that Subtenant first conducts business in any part of the Premises; or
  - (2) The later of:
    - (A) The Scheduled Commencement Date, and
    - (B) The day that Sublandlord tenders possession of the Premises to Subtenant with the Tenant Improvements Substantially Complete (defined in Work Letter) or that date that Sublandlord would have tendered possession of the Premises but for delay caused by Subtenant.
- (b) **Expiration Date.** "Expiration Date" means December 31, 2016.
- (c) **Early Occupancy.** Subtenant may not enter the Premises for any purpose until Sublandlord tenders the Premises to Subtenant. If Subtenant conducts business in any part of the Premises before the Scheduled Commencement Date, Subtenant will pay Base and Additional Rent for that period at the rate for the first Month that such Rent is due, without discount or excuse.
- (d) **Late Occupancy.** If Sublandlord fails to tender possession of the Premises to Subtenant by the Scheduled Commencement Date, Sublandlord will not be in default of this Sublease.
- (e) **Confirmation of Term.** Sublandlord shall notify Subtenant of the Commencement Date using a Notice of Sublease Term ("NLT") in the form attached to this Sublease as Exhibit E. Subtenant shall execute and deliver to Sublandlord the NLT within 10 business days after its receipt, but Subtenant's failure to do so will not reduce Subtenant's obligations or Sublandlord's rights under this Sublease.

**3.2 Holdover.** If Subtenant keeps possession of the Premises after the Expiration Date (or earlier termination of this Sublease), without Sublandlord's prior written consent (a "Holdover"), which may be withheld in its sole discretion, then in addition to the remedies available elsewhere under this Sublease or by law, Subtenant will be a tenant-at-sufferance and must comply with all of Subtenant's obligations under this Sublease, except that for each Month of any Holdover, Subtenant will pay as Base Rent 150% of the Base Rent payable for the last Month of the Term (or that would have been payable but for abatement or excuse), without proration for any partial Month of Holdover. Subtenant shall indemnify and defend Sublandlord from and against all claims and damages, both consequential and direct, that Sublandlord suffers due to Subtenant's failure to return possession of the Premises to Sublandlord at the end of the Term. Sublandlord's deposit of Subtenant's Base Rent payment during any Holdover will not constitute Sublandlord's consent to a Holdover, or create or renew any tenancy.

### **3.3 Condition on Expiration.**

- (a) **Return of the Premises.** At the end of the Term, Subtenant will return possession of the Premises to Sublandlord vacant, free of Subtenant's Personal Property, in broom-clean condition, and with the Premises, including all Leasehold Improvements, in good working order and repair (excepting ordinary wear and tear). In addition, Sublandlord may, if required by Prime Sublandlord, require Subtenant, by notice at least 20 days before the expiration of the Term, to remove (and restore the Premises damaged by removal of) (i) any Subtenant's Wiring, or (ii) any item of Leasehold Improvements or Alterations that Prime Sublandlord required to be removed (or reserved the right to so require) at the time of approval of the installation of same or for which Subtenant failed to obtain Sublandlord's written consent under §8.1(a).
- (b) **Correction by Sublandlord.** If Subtenant fails to return possession of the Premises to Sublandlord in the condition required under (a), then Subtenant shall reimburse Sublandlord for the costs incurred by Sublandlord to put the Premises in the condition required under (a), plus an administration fee of five percent (5%) of such costs.

- (c) **Abandoned Property.** Subtenant's Personal Property left behind in the Premises after the end of the Term will be considered abandoned. Sublandlord may move, store, retain or dispose of these items at Subtenant's expense, plus an administration fee of five percent (5%) of such expenses.

**3.4 New Sublease with College for Creative Studies.** If this Sublease is terminated by Sublandlord pursuant to the terms hereof and the CUE Building Sublease has terminated, College for Creative Studies ("CCS") shall, upon the written request of Sublandlord, enter into a new sublease of the Premises on the same terms and conditions of this Sublease for what would have been the remainder of the Term of this Sublease but for the termination of this Sublease; provided, however, that Sublandlord, in addition to any other rights of termination provided for in such new sublease, may terminate the new sublease upon not less than sixty (60) days notice if Sublandlord desires to sublease the Premises to another person or entity who will also sublease all or a portion of the premises in the Building that had been subleased by CUE.

#### **4. RENT**

**4.1 Base Rent.** During the Term, Subtenant shall pay all Base Rent in advance, in equal Monthly installments, on the Commencement Date and thereafter by the 1<sup>st</sup> of each Month. Base Rent for any Partial Month will be prorated. Subtenant may, at its election, pay such Base Rent directly to Prime Sublandlord and payment of Base Rent directly to Prime Sublandlord shall constitute payment to Sublandlord for purposes of this Sublease.

**4.2 Additional Rent.** Subtenant shall pay when due, directly to Prime Sublandlord, all "Additional Rent" payable by Sublandlord to Prime Sublandlord under Section 4.2 of the Prime Sublease. If any sum is paid by Prime Sublandlord to Sublandlord pursuant to the last sentence of Section 4.2 (a) of the Prime Sublease, Sublandlord shall promptly pay such amount to Subtenant. Sublandlord shall promptly furnish Subtenant with all notices received by Sublandlord from Prime Sublandlord regarding estimates of Additional Rent and year end statements of the actual Additional Rent. If Subtenant gives Sublandlord written notice objecting to any items of Additional Rent set forth in the annual statement within ninety (90) days after Sublandlord's receipt of such statement, Sublandlord will give Prime Sublandlord written notice objecting to such statement, based on the items objected to by Subtenant, within ninety (90) days after Sublandlord's receipt of such statement.

**4.3 Other Taxes.** Upon demand, Subtenant will reimburse Sublandlord for taxes paid by Sublandlord on (a) Subtenant's Personal Property, (b) Rent, (c) Subtenant's occupancy of the Premises, or (d) this Sublease. If Subtenant cannot lawfully reimburse Sublandlord for these taxes, then the Base Rent will be increased to yield to Sublandlord the same amount after these taxes were imposed as Sublandlord would have received before these taxes were imposed. In addition, Subtenant will pay directly to Prime Sublandlord all amounts reimbursable by Sublandlord to Prime Sublandlord pursuant to Section 4.3 of the Prime Sublease.

**4.4 Terms of Payment.** "Rent" means all amounts payable by Subtenant under this Sublease and the exhibits, including Base Rent and Additional Rent. If a time for payment of an item of Rent is not specified in this Sublease, then Subtenant will pay Rent within 30 days after receipt of Sublandlord's statement or invoice. Unless otherwise provided in this Sublease, Subtenant shall pay Rent without notice, demand, deduction, abatement or setoff, in lawful U.S. currency, at Sublandlord's Billing Address. Sublandlord will send invoices payable by Subtenant to Subtenant's Billing Address; however, neither Sublandlord's failure to send an invoice nor Subtenant's failure to receive an invoice for Base Rent (and installments of Estimated Additional Rent (as defined in the Prime Sublease)) will relieve Subtenant of its obligation to timely pay Base Rent (and installments of Estimated Additional Rent). Each partial payment by Subtenant shall be deemed a payment on account. No endorsement or statement on any check or any accompanying letter shall constitute an accord and satisfaction, affect Sublandlord's right to collect the full amount due, or require Sublandlord to apply any payment to other than Rent earliest due. No payment by Subtenant to Sublandlord will be deemed to extend the Term or render any notice, pending suit or judgment ineffective. By notice to the other, each party may change its Billing Address. Any payment made by Subtenant to a lockbox maintained by Prime Sublandlord for receipt of payment of Rent shall not be deemed to have been accepted by Prime Sublandlord or Sublandlord provided such payment is returned to Subtenant within ten (10) days after Prime Sublandlord or Sublandlord receives notice that the payment has been received into the lockbox.

**4.5 Late Payment.** If Sublandlord is charged a "Late Charge" under the Prime Sublease because Subtenant failed to pay Sublandlord when due Base Rent, or Subtenant failed to pay to Prime Sublandlord when due any Additional Rent or any Base Rent if Subtenant elected to pay such Base Rent directly to Prime Sublandlord, Subtenant shall pay each such Late Charge directly to Prime Sublandlord.

## 5. USE & OCCUPANCY

**5.1 Use.** Subtenant shall use and occupy the Premises only for the Use and for no other purpose without Sublandlord's written consent, which consent may be withheld in Sublandlord's sole and absolute discretion. Sublandlord does not represent or warrant that the Project is suitable for the conduct of Subtenant's particular business.

### **5.2 Compliance with Laws and Directives.**

(a) Subtenant's Compliance. Subject to the remaining terms of this Sublease, Subtenant shall comply at Subtenant's expense with all directives of Prime Sublandlord's insurers, governing authorities or laws concerning:

- (1) The Premises, including the Leasehold Improvements, and Alterations,
- (2) Subtenant's use or occupancy of the Premises,
- (3) Subtenant's employer/employee obligations,
- (4) A condition created by Subtenant or any of its agents, employees, contractors, or invitees,
- (5) Subtenant's failure to comply with this Sublease,
- (6) The negligence of Subtenant or its agents, employees, invitees or contractors, or
- (7) Any chemical wastes, contaminants, pollutants or substances that are hazardous, toxic, infectious, flammable or dangerous, or regulated by any local, state or federal statute, rule, regulation or ordinance for the protection of health or the environment, including but not limited to any applicable provisions under the Natural Resources and Environmental Protection Act of 1994 (Act 451), Part 201, including the Administrative Rules promulgated thereunder as most recently amended on December 21, 2002 ("Hazardous Materials") that are introduced to the Project, handled or disposed by Subtenant or its agents, employees, invitees or contractors.

(b) Environmental Provisions.

- (1) Subtenant shall not "treat", "store" or "dispose" of any "hazardous substances," "hazardous wastes" or "toxic substances" as those terms are defined under CERCLA, 42 U.S.C. 9601, et seq., RCRA 42 U.S.C. 6901, et seq., or TSCA, 15 U.S.C. 2601, et seq., or under similar Michigan law on, at or below the Premises or Project.
- (2) Use of ground water at, in or under the Project, including potable and non-potable uses, is prohibited.

**5.3 Occupancy.** Subtenant shall not interfere with Building services or other subtenants' rights to quietly enjoy their respective premises or the Common Areas. Subtenant shall not make or continue a nuisance, including any objectionable odor, noise, fire hazard, vibration, or wireless or electromagnetic transmission. Subtenant will not maintain any Leasehold Improvements or use the Premises in a way that increases the cost of insurance required under §9.2, or requires insurance in addition to the coverage required under §9.2.

## 6. SERVICES & UTILITIES

**6.1 Prime Sublandlord Services.** While Sublandlord has no obligation to provide any of the Standard Services (as defined in the Prime Sublease) or any additional services as described in the Prime Sublease, Sublandlord shall, upon Subtenant's request and at Subtenant's expense, use reasonable efforts to cause Prime Sublandlord to provide such services. Subtenant shall pay, when due, directly to Prime Sublandlord, all rent payable by Sublandlord to Prime Sublandlord pursuant to Section 6.2 of the Prime Sublease. Subtenant shall, at Subtenant's expense, if required by Prime Sublandlord, upgrade or modify existing Project Mechanical Systems serving the Premises or the Leasehold Improvements to the extent necessary to meet Subtenant's excess requirements (including installation of Building Standard meters to measure the same).

**6.2 Utilities Billing.** Subtenant's total consumption of electricity in the Premises, including lighting and convenience outlets, electricity consumed in operating the heat pumps that furnish air conditioning and heat to the Premises, and water and gas furnished to the Premises shall be separately submetered to the Premises. Subtenant

shall pay when due, directly to Prime Sublandlord, the Utility Rent (as defined in Section 6.3 of the Prime Sublease). Sublandlord shall immediately forward to Subtenant any invoice for or estimate of Utility Rent received by Sublandlord from Prime Sublandlord.

**6.3 Telecommunication Services.** Subtenant will contract directly with third party providers and will be solely responsible for paying for all telephone, data transmission, video and other telecommunication services ("Telecommunication Services") subject to the following:

- (a) Providers. Each Telecommunication Services provider that does not already provide service to the Building shall be subject to Prime Sublandlord's approval, which Prime Sublandlord may withhold in Prime Sublandlord's reasonable discretion. Without liability to Subtenant, the license of any Telecommunication Services provider servicing the Building or Premises may be terminated under the terms of the license, or not renewed upon the expiration of the license.
- (b) Subtenant's Wiring. Prime Sublandlord may, in its sole discretion, designate the location of all wires, cables, fibers, equipment, and connections ("Subtenant's Wiring") for Subtenant's Telecommunication Services, and restrict and control access to telephone cabinets and rooms. Subtenant may not use or access the Building, Building Structure, Project Mechanical Systems, or Common Areas for Subtenant's Wiring without Prime Sublandlord's prior written consent, which Prime Sublandlord may withhold in Prime Sublandlord's sole discretion, or for which Prime Sublandlord may charge a fee determined by Prime Sublandlord.
- (c) No Beneficiaries. This §6.4 is solely for Subtenant's benefit, and no one else shall be considered a beneficiary of these provisions.

## **7. REPAIRS**

**7.1 Subtenant's Repairs.** Except as provided in Article 12, during the Term Subtenant shall, at Subtenant's cost, repair, maintain and replace, if necessary, the Premises, including the Leasehold Improvements, and keep the Premises in good order, condition and repair. Subtenant's work under this §7.1 must be (a) approved by Prime Sublandlord before commencement, (b) supervised by Prime Sublandlord at Subtenant's expense, if Prime Sublandlord reasonably so requires, and (c) performed in compliance with law and in a first-class manner with materials of at least Building Standard. If Subtenant fails to perform any of its obligations under this §7.1, then Sublandlord may perform such obligations and Subtenant will pay as Rent to Sublandlord the cost of such performance, including an amount sufficient to reimburse Sublandlord for overhead and supervision, within 10 days after the date of Sublandlord's invoice. For purpose of performing such obligations, or to inspect the Premises, Sublandlord may enter the Premises upon not less than two days' prior notice to Subtenant (except in cases of actual or suspected emergency, in which case no prior notice will be required) without liability to Subtenant for any loss or damage incurred as a result of such entry, provided that Sublandlord will take reasonable steps in connection with such entry to minimize any disruption to Subtenant's business or its use of the Premises. Subtenant will notify Sublandlord (and may notify Prime Sublandlord) promptly after Subtenant learns of (x) any fire or other casualty in the Premises, (y) any damage to or defect in the Premises, including the fixtures and equipment in the Premises, for the repair of which Prime Sublandlord might be responsible, and (z) any damage to or defect in any parts or appurtenances of the Building's sanitary, electrical heating, air conditioning, elevator or other systems located in or passing through the Premises.

**7.2 Prime Sublandlord's Repairs.** While Sublandlord is not obligated to perform any of Prime Landlord's obligations under Section 7.2 of the Prime Sublease, Sublandlord shall, upon Subtenant's request and at Subtenant's expense, use reasonable efforts to cause Prime Sublandlord to perform its obligations under such Section of the Prime Sublease. Subtenant may not repair or maintain the Project on Prime Sublandlord's or Sublandlord's behalf or offset any Rent for any repair or maintenance of the Project that is undertaken by Subtenant.

## **8. ALTERATIONS**

**8.1 Alterations by Subtenant.** "Alterations" mean any modification, addition or improvement to the Premises made by Subtenant, including any modification to the Building, Project Mechanical Systems or Common Areas required by law or governing authority as a condition of performing the work. Alterations do not include work performed under a Work Letter that is part of this Sublease. Alterations are made at Subtenant's sole cost and expense, subject to the following:

- (a) Consent Required. All Alterations require Prime Sublandlord's and Sublandlord's prior written consent, which consent of Sublandlord may not be unreasonably withheld. Unless Subtenant obtains Prime Sublandlord's prior written consent to the Alterations becoming part of the Premises to be tendered to Prime Sublandlord on termination of the Prime Sublease, Sublandlord may, if required by Prime Sublandlord, require Subtenant to remove Alterations and restore the Premises under §3.3 upon termination of this Sublease.
- (b) Performance of Alterations. Alterations shall be performed by Subtenant in a good and workmanlike manner according to plans and specifications approved by Sublandlord. All Alterations shall comply with law and insurance requirements. Prime Sublandlord's designated contractors must perform Alterations affecting the Building, Building Structure, Project Mechanical Systems or Common Areas; and, all other work will be performed by qualified contractors that meet Prime Sublandlord's insurance requirements and are otherwise approved by Prime Sublandlord. Promptly after completing Alterations, Subtenant will deliver to Prime Sublandlord and Sublandlord "as-built" CAD plans, proof of payment, and unconditional waivers of lien from all contractors, subcontractors, sub-subcontractors and suppliers.
- (c) Bonding. If requested by Prime Sublandlord, before commencing Alterations Subtenant shall at Subtenant's cost obtain bonds, or deposit with Prime Sublandlord other security acceptable to Prime Sublandlord for the payment and completion of the Alterations. These bonds or other security shall be in form and amount acceptable to Sublandlord.
- (d) Alterations Fee. Subtenant shall pay directly to Prime Sublandlord all Alterations Fees (as defined in the Prime Sublease) and costs payable by Sublandlord to Prime Sublandlord in connection with Subtenant's Alterations.

## **8.2 Intentionally Omitted.**

**8.3 Liens and Disputes.** Subtenant will keep title to the Project free of any liens concerning the Premises, Alterations, or Subtenant's Personal Property, and will promptly take whatever action is required to have any of these liens released and removed of record (including, as necessary, posting a bond or other deposit). To the extent legally permitted, each contract and subcontract for Alterations will provide that no lien attaches to or may be claimed against the Project. Subtenant will indemnify Sublandlord for costs and expenses that Sublandlord reasonably incurs because of Subtenant's violation of this §8.3.

## **9. INSURANCE**

### **9.1 Subtenant's Insurance**

- (a) Subtenant's Coverage. Before taking possession of the Premises for any purpose (including construction of any Alterations, if any) and during the Term, Subtenant will provide and keep in force the following coverage:
  - (1) Commercial general liability insurance insuring Subtenant's use and occupancy of the Premises and use of the Project, and covering personal and bodily injury, death, and damage to others' property of not less than the Liability Limit. Each of these policies shall include cross liability and severability of interests clauses, and be written on an occurrence, and not claims-made, basis. Each of these policies shall name Sublandlord, Prime Landlord, Prime Sublandlord, the Building property manager, each secured lender, and any other party reasonably designated by Prime Sublandlord and Sublandlord as an additional insured ("Additional Insured"). The commercial general liability insurance carried by Sublandlord or other Additional Insureds pursuant to the terms of this Sublease shall be non contributing and Subtenant's commercial general liability insurance shall be primary to any such insurance carried by Sublandlord or other Additional Insureds.
  - (2) All risk insurance (including standard extended coverage endorsement perils, leakage from fire protective devices and other water damage) covering the full replacement cost of the Premises, including the Leasehold Improvements, and Subtenant's Personal Property. Each of these policies shall name Prime Sublandlord, Sublandlord and each Additional Insured as loss payee to the extent of their interest in the Premises. Each of

these policies shall include a provision or endorsement in which the insurer waives its right of subrogation against Prime Sublandlord, Sublandlord and each Additional Insured.

- (3) Insurance covering the perils described in (2) for Subtenant's loss of income or insurable gross profits with a limit not less than Subtenant's annual Rent.
  - (4) If any boiler or machinery is operated solely to provide service to the Premises, boiler and machinery insurance, with a limit of at least the Liability Limit.
  - (5) Insurance required by law, including workers' compensation insurance.
  - (6) Employers liability insurance with limits not less than \$1 million/each accident; \$1million/disease - each employee; \$1 million/disease - aggregate.
  - (7) Commercial automobile liability insurance covering all owned, hired, and non-owned vehicles with a combined single limit of not less than \$1 million for each accident or person.
  - (8) Insurance covering the Premises, including the Leasehold Improvements, and Subtenant's Personal Property against loss or damage due to earthquake or difference in conditions perils. Subtenant may elect to self-insure this coverage. If Subtenant does not elect to self-insure this coverage, then each of these policies shall name Prime Sublandlord, Sublandlord and each Additional Insured a loss payee to the extent of their interest in the Premises.
- (b) Insurers and Terms. Each policy required under (a) shall be written with insurance companies licensed to do business in the state in which the Building is located having a rating of not less than A+ and a Financial Size Class ("FSC") of at least VIII by A. M. Best Company, and be on terms that are acceptable to Prime Sublandlord.
- (c) Proof of Insurance. Subtenant shall provide Sublandlord with certificates of insurance or other reasonable proof that the coverage required under (a) is in effect. Subtenant will provide reasonable proof of renewal or replacement at least 30 days prior to any policy expiration. Failure of Subtenant to provide any insurance required by this Sublease shall not be construed as a waiver of liability or any limit of damages, the parties expressly agreeing that the requirement to carry insurance does not deem that said insurance is adequate to cover the damages so insured.
- (d) Waiver of Subrogation. Each policy required under (a) shall include a provision or endorsement in which the insurer waives its right of subrogation against Prime Sublandlord, Sublandlord and each Additional Insured.

## **9.2 Sublandlord's Insurance.**

Sublandlord's Coverage. While Sublandlord has no obligation to maintain the insurance required to be maintained by Prime Sublandlord pursuant to Section 9.2 of the Prime Sublease, Sublandlord shall, upon Subtenant's request and at Subtenant's expense, use reasonable efforts to cause the Prime Sublandlord to maintain such insurance.

## **10. DAMAGE OR DESTRUCTION**

**10.1 Damage and Repair.** If all or any part of the Project is damaged by fire or other casualty and the Sublease is not terminated pursuant to a termination of the Prime Sublease, Subtenant will repair and restore the Premises, including the Leasehold Improvements, with reasonable promptness to the condition existing prior to such damage, but not less than current Building Standards, except for modifications required by law.

While Sublandlord has no obligation to perform Prime Sublandlord's repair and restoration obligations under Section 10.1 of the Prime Sublease, Sublandlord shall, upon Subtenant's request and at Subtenant's expense, use reasonable efforts to cause Prime Sublandlord to perform such obligations.

**10.2 Rent Abatement.** If as a result of the damage or destruction under §10.1 any part of the Premises becomes Untenantable, which shall mean the Subtenant is actually unable to use all or any portion of the Premises in the normal conduct of its business, and Subtenant does not actually use the Untenantable part of the Premises for more than 3 consecutive business days, then Subtenant's Base Rent and Additional Rent for the Untenantable part of

the Premises not used by Subtenant shall, to the extent Prime Sublandlord receives the proceeds of loss of rental income insurance, be abated from the 4<sup>th</sup> consecutive business day until the earlier of the date (a) the damaged or destroyed part of the Premises becomes tenantable, or (b) 180 days after Prime Sublandlord completes its required repairs and restoration. Subtenant's sole remedy against Sublandlord for damage or destruction of any part of the Project is abatement of Base Rent and Additional Rent under this §10.2, and Sublandlord will not be liable to Subtenant for any other amount, including damages to Subtenant's Personal Property, consequential damages, actual or constructive eviction, or abatement of any other item of Rent.

## **11. INDEMNITY**

**11.1 Claims.** "Claims" mean any and all liabilities, losses, claims, demands, damages or expenses that are suffered or incurred by a party, including attorneys' fees reasonably incurred by that party in the defense or enforcement of the rights of that party.

### **11.2 Sublandlord's Waivers and Subtenant's Indemnity.**

- (a) **Sublandlord's Waivers.** Sublandlord waives any Claims against Subtenant and its Affiliates for perils insured or required to be insured by Prime Sublandlord under subsections (2) and (3) of §9.2(a) of the Prime Sublease, except to the extent caused by the gross negligence or willful misconduct of Subtenant or its Affiliates.
- (b) **Subtenant's Indemnity.** Unless waived by Sublandlord under §11.2(a), Subtenant will indemnify and defend Prime Sublandlord, Sublandlord and Prime Landlord and their respective Affiliates and hold each of them harmless from and against Claims arising from:
  - (1) Any accident or occurrence on or about the Premises, except to the extent caused by Prime Sublandlord's, Sublandlord's or Prime Landlord's or any of their respective Affiliate's gross negligence or willful misconduct; or
  - (2) Subtenant's negligence or willful misconduct; or
  - (3) Any claim for commission or other compensation by any person for services rendered to Subtenant in procuring this Sublease.

### **11.3 Subtenant's Waivers and Sublandlord's Indemnity.**

- (a) **Subtenant's Waivers.** Subtenant waives any Claims against Prime Sublandlord, Sublandlord and Prime Landlord and their respective Affiliates for:
  - (1) Perils insured or required to be insured by Subtenant under subsections (2), (3) and (8) of §9.1(a), except to the extent caused by the gross negligence or willful misconduct of Prime Sublandlord, Sublandlord or Prime Landlord or their respective Affiliates, but in all events Subtenant waives any Claims for any special or consequential damages (such as interruption of business, loss of income, or loss of opportunity); or
  - (2) Damage caused by any public utility, public work, other subtenants or occupants of the Project, or persons other than Prime Sublandlord, Sublandlord or Prime Landlord or any of their respective Affiliates; or
  - (3) Damages in excess of the insurance Sublandlord maintains under §9.1.
- (b) **Sublandlord's Indemnity.** Unless waived by Subtenant under (a), Sublandlord will indemnify and defend Subtenant and its Affiliates and hold each of them harmless from and against Claims arising from:
  - (1) Sublandlord's gross negligence or willful misconduct; or
  - (2) Any claim for commission or other compensation by any person for services rendered to Sublandlord in procuring this Sublease.

**11.4 Affiliates Defined.** "Affiliates" means with respect to a party (a) that party's partners, co-members and joint venturers, (b) each corporation or other entity that is a parent or subsidiary of that party, (c) each corporation or other entity that is controlled by or under common control of a parent of such party, and (d) the directors, officers, employees and agents of that party and each person or entity described in this §11.4(a-c).

**11.5 Survival of Waivers and Indemnities.** Sublandlord's and Subtenant's waivers and indemnities under §11.2 and §11.3 will survive the expiration or early termination of this Sublease.

## **12. CONDEMNATION**

**12.1 Taking.** "Taking" means acquiring of all or part of the Project for any public or quasi-public use by exercise of a right of eminent domain or under any other law, or any sale in lieu thereof. If a Taking occurs:

- (a) **Total Taking.** If because of a Taking substantially all of the Premises are Untenantable for substantially all of the remaining Term, then the Sublease terminates on the date of the Taking.
- (b) **Partial Taking.** If a Taking does not cause the Sublease to be terminated under (a), then Prime Sublandlord is responsible under the Prime Sublease to restore (and alter, as necessary) the Premises to be tenantable, unless this Sublease is terminated as a result of a termination of the Prime Sublease or this Sublease is terminated by Subtenant under the following circumstances:
  - (1) Subtenant may terminate the Sublease upon 60 days prior written notice to Sublandlord if the Taking causes more than 40% of the Premises to be Untenantable for the remainder of the Term and Subtenant cannot reasonably operate Subtenant's business for the Use in the remaining Premises.
- (c) If the Sublease is not terminated under (a) or (b), the Rent will be reduced for the term of the Taking based upon the rentable square feet ("RSF") of the Premises made Untenantable by the Taking.

**12.2 Awards.** Prime Sublandlord is entitled to the entire award for any claim for a taking of any interest in this Sublease or the Project, without deduction or offset for Subtenant's estate or interest; however, Subtenant may make a claim for relocation expenses and damages to Subtenant's Personal Property and business to the extent that Subtenant's claim does not reduce Prime Sublandlord's award.

## **13. SUBTENANT TRANSFERS**

**13.1 Transfer Defined.** "Transfer" means any:

- (a) Sublease of all or part of the Premises, or assignment, mortgage, hypothecation or other conveyance of an interest in this Sublease;
- (b) Use of the Premises by anyone other than Subtenant with Subtenant's consent provided that the use of the Premises for athletic or related activities by subtenants of the Building shall not constitute a Transfer;
- (c) Change in Subtenant's form of organization (e.g., a change from a partnership to limited liability company);
- (d) Transfer of 51% or more of Subtenant's assets, shares (except shares transferred in the normal course of public trading), membership interests, partnership interests or other ownership interests; or
- (e) Transfer of effective control of Subtenant.

**13.2 Consent Required.** Except as provided in Section 13.5 hereof, each proposed Transfer requires Sublandlord's and Prime Sublandlord's prior written consent, which consent may be withheld in their respective sole and absolute discretion except as otherwise provided below, in which case the parties will proceed as follows:

- (a) **Subtenant's Notice.** Subtenant shall notify Sublandlord at least 30 days prior to the proposed Transfer of the name and address of the proposed transferee and the proposed use of the Premises, and, in the case of an assignment of this Sublease, include in the notice the Transfer documents and copies of the proposed transferee's balance sheets and income statements (both current and for the past 2 years).
- (b) **Sublandlord's Rights.** Within 30 days after receipt of Subtenant's complete notice, Sublandlord may:



- (1) If the proposed Transfer is either an assignment of this Sublease or sublease of substantially all of the Premises, terminate this Sublease as of the proposed Transfer date, in which case neither Sublandlord nor Subtenant shall have any further obligations or liabilities to the other from and after the date of such termination except for those liabilities or obligations which arose prior to the date of termination or which expressly survive the termination of this Sublease; or
- (2) If the proposed Transfer is a sublease of all of the Premises or any part of the Premises that will be separately demised and have its own entrance from the Common Areas, exercise a right of first refusal to sublease such portion of the Premises at the lesser of (A) the Rent (prorated for subletting part of the Premises), or (B) the rent payable in the proposed Transfer; or
- (3) Consent or deny consent to the proposed Transfer; provided, however, that Sublandlord shall not unreasonably withhold its consent to a proposed Transfer to a transferee whose proposed use is compatible with an integrated educational community.

**13.3 Payments to Sublandlord.** Subtenant shall pay Sublandlord 100% of Transfer receipts that exceed Subtenant's Rent (on a per square foot basis); after Subtenant is reimbursed for Subtenant's reasonable and customary out-of-pocket costs incurred in the Transfer, including attorneys' fees, Alterations, and broker commissions.

**13.4 Effect of Transfers.** No Transfer releases Subtenant or any guarantor of this Sublease from any Sublease obligation. Sublandlord's acceptance of a payment from any person or entity other than Subtenant that occupies the Premises does not waive Subtenant's obligations under this Article 13. If Subtenant is in default of this Sublease, Sublandlord may proceed against Subtenant without exhausting any remedies against any transferee and may require (by written notice to any transferee) any transferee to pay Transfer rent owed Subtenant directly to Sublandlord (which Sublandlord will apply against Subtenant's Sublease obligations). Termination of this Sublease for any reason will not result in a merger. Each sublease will be deemed terminated upon termination of this Sublease unless Sublandlord notifies the subtenant in writing of Sublandlord's election to assume any sublease, in which case the subtenant shall attorn to Sublandlord under the executory terms of the sublease.

**13.5 Permitted Transfers.** Notwithstanding the foregoing, Subtenant may, without Sublandlord's consent, assign this Sublease to an assignee of the CUE Building Sublease pursuant to an assignment permitted under Article 13 of the CUE Building Sublease, and Subtenant may sublease the entire Premises to a person or entity that subleases all or any portion of the Premises (as defined in the CUE Building Sublease) from Subtenant pursuant to a sublease permitted under Article 13 of the CUE Building Sublease.

## **14. SUBLANDLORD TRANSFERS**

**14.1 Sublandlord's Transfer.** Sublandlord's right to transfer any interest in the Project or this Sublease is not limited by this Sublease. Upon any such transfer, Subtenant will attorn to Sublandlord's transferee and Sublandlord will be released from liability under this Sublease, except for any Sublease obligations accruing before the transfer that are not assumed by the transferee.

**14.2 Subordination.** This Sublease is, and will at all times be, subject and subordinate to the Prime Lease and Prime Sublease and each ground lease, mortgage, deed to secure debt or deed of trust now or later encumbering the Premises, Building or any other portion of the Project, including each renewal, modification, supplement, amendment, consolidation or replacement thereof (each, an "Encumbrance"). At Prime Sublandlord's request, Subtenant will, without charge, promptly execute, acknowledge and deliver to Prime Sublandlord (or, at Sublandlord's request, the Encumbrance holder) any instrument reasonably necessary to evidence this subordination. Notwithstanding the foregoing, each Encumbrance holder may unilaterally elect to subordinate its Encumbrance to this Sublease.

**14.3 Attornment.** Subtenant will automatically attorn to any transferee of Sublandlord's interest in the Project that succeeds Sublandlord by reason of a termination, foreclosure or enforcement proceeding of an Encumbrance, or by delivery of a deed in lieu of any foreclosure or proceeding (a "Successor Sublandlord"). In this event, the Sublease will continue in full force and effect as a direct lease between the Successor Sublandlord and Subtenant on all of the terms of this Sublease, except that the Successor Sublandlord shall not be:

- (a) Liable for any obligation of Sublandlord under this Sublease, or be subject to any counterclaim, defense or offset accruing before Successor Sublandlord succeeds to Sublandlord's interest;
- (b) Bound by any modification or amendment of this Sublease made without Successor Sublandlord's consent;
- (c) Bound by any prepayment of more than one Month's Rent; or
- (d) Obligated to perform any improvements to the Premises (or provide an allowance therefor). Upon Successor Sublandlord's request, Subtenant will, without charge, promptly execute, acknowledge and deliver to Successor Sublandlord any instrument reasonably necessary or required to evidence such attornment.

**14.4 Estoppel Certificate.** Within 10 days after receipt of Prime Sublandlord's written request, Subtenant (and each guarantor and transferee of an interest in the Sublease) will execute, acknowledge and deliver to Sublandlord a certificate upon which Prime Sublandlord and each existing or prospective Encumbrance holder may rely confirming the following (or any exceptions to the following):

- (a) The Commencement Date and Expiration Date;
- (b) The documents that constitute the Sublease, and that the Sublease is unmodified and in full force and effect;
- (c) The date through which Base Rent, Additional Rent, and other Rent has been paid;
- (d) That neither Sublandlord nor Subtenant is in default of this Sublease;
- (e) That Subtenant has accepted the Premises;
- (f) That Subtenant solely occupies the Premises; and
- (g) Such other matters concerning this Sublease or Subtenant's occupancy that Sublandlord may reasonably require.

**14.5 Sublandlord's Compliance with Prime Sublease.** Sublandlord shall perform and observe all of its covenants and obligations under the Prime Sublease as and when due except to the extent Subtenant is otherwise liable under this Sublease to perform the same.

## **15. DEFAULT AND REMEDIES**

**15.1 Subtenant's Default.** Subtenant is in default ("Default") of this Sublease if any of the following occur:

- (a) Subtenant fails to pay Rent when due, and the failure continues for 10 days after notice to Subtenant of the failure.
- (b) Subtenant fails to perform a non-monetary Sublease obligation and the failure continues for 20 days after notice to Subtenant of the failure, except that (1) In an emergency Sublandlord may require Subtenant to perform this obligation in a reasonable time of less than 20 days, or (2) If Subtenant begins performing this obligation within 20 days after notice to Subtenant of this failure, but it will reasonably take more than 20 days to complete performing the obligation, then Subtenant will have a reasonable amount of additional time to complete performing the obligation so long as Subtenant diligently pursues the performance of such obligation to completion.
- (c) Subtenant consummates a Transfer that violates Article 13.
- (d) Subtenant fails to discharge any attachment or levy on Subtenant's interest in this Sublease within 15 days after the attachment or levy encumbers this Sublease.
- (e) Subtenant fails to cause any of the following proceedings to be vacated or dismissed within 60 days after they are commenced: (1) the appointment of a receiver or trustee of the assets of Subtenant or any guarantor of this Sublease, (2) the voluntary or involuntary bankruptcy of Subtenant or any guarantor of this Sublease, or (3) any assignment for the benefit of creditors of the assets of Subtenant or any guarantor of this Sublease.

- (f) Subtenant vacates or abandons substantially all of the Premises.
- (g) Subtenant is named on the list of Specially Designated Nationals and Blocked Persons maintained by the Office of Foreign Assets Control of the United States Department of the Treasury or any such similar list maintained by the state or federal government.
- (h) The failure of Subtenant to establish policies required by the Charter School Contract in a timely manner, as required by such Charter School Contract, and such failure continues for twenty (20) days after notice to Subtenant of the failure.
- (i) A Default exists under the CUE Building Sublease.

**15.2 Remedies.** If Default occurs, Sublandlord shall have the rights and remedies set forth in this Sublease which shall be distinct, separate and cumulative and shall not operate to exclude or deprive Sublandlord of any other right or remedy allowed it by law or at equity.

- (a) Sublandlord may terminate this Sublease by giving notice to Subtenant of Sublandlord's election to do so, in which event the Term of this Sublease shall end, and all right, title and interest of Subtenant hereunder shall expire, on the date stated in such notice. In no event shall either re-entry or the taking of possession of the Premises by Sublandlord be construed as an election by Sublandlord to terminate this Sublease. Written notice alone shall be proof of any such election by Sublandlord. No termination of this Sublease shall terminate Subtenant's obligations under this Sublease to pay Rent, which obligation shall survive such termination.
- (b) Sublandlord may terminate Subtenant's right to possession of the Premises without terminating this Sublease by giving notice to Subtenant that Subtenant's right to possession shall end on the date stated in such notice, and all right of Subtenant to possession of the Premises or any part thereof shall cease on the date stated in such notice. An election by Sublandlord to terminate Subtenant's right to possession of the Premises without terminating the Sublease shall not preclude a subsequent election by Sublandlord to terminate the Sublease.
- (c) If Sublandlord terminates this Sublease as provided in Section 15.2 (a) or if Sublandlord terminates Subtenant's right to possession of the Premises as provided in Section 15.2(b), (1) Subtenant shall surrender possession, vacate the Premises and immediately deliver possession to Sublandlord; and (2) Sublandlord may, with due process of law, re-enter and take possession of the Premises without being liable for prosecution for such action or being deemed guilty of any manner of trespass, and without diminishing any remedies for collection of Rent and without relinquishing any other right of Sublandlord.
- (d) Sublandlord may enforce the provisions of this Sublease and may enforce and protect the rights of Sublandlord by a suit or suits in equity or at law for the specific performance of any covenant or agreement contained in this Sublease, or for the enforcement of any other appropriate legal or equitable remedy, including recovery of all moneys due or to become due from Subtenant under any of the provisions of this Sublease.
- (e) Sublandlord may, but shall not be obligated to, cure Subtenant's Default by making any payment or performing such other act to the extent Sublandlord may deem desirable. Any such cure by Sublandlord shall be without notice and shall not waive or release Subtenant from any obligation under this Sublease. Subtenant covenants and agrees to pay Sublandlord, upon demand, all advances, costs and expenses incurred by Sublandlord in connection with such cure, including reasonable attorney's fees, together with interest at the Default Rate, from the date such are incurred by Sublandlord to the date of payment to Sublandlord.

**15.3 Remedies for Recovery of Rent and Damages.**

- (a) If Sublandlord terminates the right of Subtenant to possession of the Premises pursuant to Section 15.2, regardless of whether Sublandlord previously terminated or subsequently terminates this Sublease:
  - (1) Sublandlord shall be entitled to recover any and all Rent due and unpaid as of the date of repossession by Sublandlord. Subtenant shall immediately pay to Landlord such Rent.

- (2) (A) Sublandlord shall, if Prime Sublandlord terminated Sublandlord's right to possession of the Premises pursuant to Section 15.2 of the Prime Sublease and has made a demand on Sublandlord for the lump sum payment described in Section 15.3(a)(2) of the Prime Sublease, be entitled to recover in one lump sum payment all unpaid Rent which would have accrued after the date of possession for the remainder of the then current Term (or if this Sublease has been terminated, what would have been the remainder of the then current Term but for such termination). For purposes of computing the amount of Rent hereunder that would have accrued after the date of repossession by Sublandlord, Additional Rent shall be calculated based on the average rate of increase, if any, in Additional Rent from the Commencement Date through the date of repossession. Subtenant shall immediately pay to Sublandlord all such Rent if the conditions to such payment as set forth above have been satisfied.
- (B) (i) If Sublandlord is not entitled to recover all unpaid Rent in one lump sum payment pursuant to clause (A) above, Sublandlord shall have the right, from time to time, to recover from Subtenant, and Subtenant shall remain liable for, all Rent and any other sums accruing as they become due under this Sublease through the remainder of the stated Term and the other provisions of this subsection (2)(B) shall be applicable.
- (ii) Sublandlord shall make commercially reasonable efforts to relet the Premises or portions thereof, so as to mitigate Sublandlord's damages. Sublandlord and Subtenant agree that Sublandlord may relet for such term or terms and on such conditions and other terms as Sublandlord, in its discretion determines; and that Sublandlord shall not be required to (A) observe any instructions given by Subtenant about such reletting; (B) lease the Premises prior to other space owned, controlled or managed by Sublandlord or its Affiliates; or (C) lease the Premises at below market rates.
- (iii) Any rent received by Sublandlord from re-letting the Premises shall be deemed to reduce Subtenant's indebtedness to Sublandlord as follows: (w) first, to reduce Subtenant's obligation to reimburse Sublandlord for Repossession Expenses, then (x) to reduce Subtenant's obligation to reimburse Sublandlord for Reletting Expenses, then (y) to reduce Subtenant's obligation to Sublandlord for Enforcement Costs, then (z) to reduce Subtenant's obligation for the payment of Rent reserved in the Sublease for the remainder of the stated Term of the Sublease. In no event shall Subtenant be entitled to a reduction (of its indebtedness to Sublandlord) in an amount in excess of the aggregate sum of Rent which would have been payable by Subtenant for the remainder of the stated Term of the Sublease, if no Default had occurred.
- (iv) As it becomes due, and without notice or demand, Subtenant shall pay to Sublandlord an amount equal to the Rent which would have been payable by Subtenant for the remainder of the stated Term of the Sublease, less any applicable reductions pursuant to the immediately preceding sentence.
- (3) Subtenant shall, upon demand, reimburse Sublandlord, with interest at the Default Rate from the date incurred through the date of payment to Sublandlord, the following: Repossession Expenses, Reletting Expenses (if subsection (2)(B) above is applicable) and Enforcement Costs.

- (b) If any law shall validly limit the amount of any damages provided for herein to an amount which is less than the amount agreed to herein, Sublandlord shall be entitled to the maximum amount available under such law.

#### **15.4 Definitions.**

- (a) "Enforcement Costs" shall be all sums, costs, expenses and damages (in addition to Repossession Expenses, Reletting Expenses, and including reasonable attorneys' fees) which are incurred by Sublandlord in enforcing Subtenant's obligations under this Sublease or by reason of Subtenant's Default, including without limitation, those arising out of any action brought by Sublandlord against Subtenant to interpret any provision of this Sublease or in connection with a bankruptcy or an assignment for the benefit of creditors.
- (b) "Reletting Expenses" shall be such costs and expenses which Sublandlord may, to the extent deemed necessary or desirable by Sublandlord, incur to relet the Subleased Premises, including without limitation, (A) repairs, alterations and additions in or to the Subleased Premises, (B) altering locks and security devices to the Subleased Premises, (C) redecoration, remodeling or refurbishing of the Subleased Premises, and (D) other costs and expenses, including brokers' commissions and reasonable attorneys' fees.
- (c) "Repossession Expenses" are such costs and expenses including, without limitation, reasonable attorneys' fees which Sublandlord may incur, as Sublandlord considers appropriate, in order to recover possession of the Premises.
- (d) Reasonable attorneys' fees shall include the value of services provided by counsel employed by Sublandlord or its Affiliates in the amount that Sublandlord would have reasonably incurred if the services had been performed by unaffiliated counsel.

**15.5 Interest.** If Subtenant at any time fails to make any payment of Rent or of any amounts owed under this Sublease, and as a result Sublandlord is charged interest thereon by Prime Sublandlord pursuant to the Prime Sublease, Subtenant shall pay all such interest directly to Prime Sublandlord.

**15.6 Waivers.** Sublandlord and Subtenant expressly waive any right to trial by jury with respect to any proceeding pertaining to this Sublease. No waiver by Sublandlord of any Default of Subtenant shall be implied to affect, and no express waiver shall affect, any Default other than the Default specified in such waiver and that only for the time and to the extent stated.

**15.7 Force Majeure.** "Force Majeure" means any cause or event beyond the reasonable control of a party to this Sublease, including any act of God, government act or restriction, labor disturbance, general shortage of materials or supplies, riot, insurrection, or act of war or terrorism. Force Majeure excuses a party from performing any non-monetary Sublease obligation for a commercially reasonable time.

#### **15.8 Sublandlord's Default and Remedies.**

- (a) Sublandlord will be in "Default" of this Sublease if Sublandlord fails to perform any Sublease obligation of Sublandlord and this failure continues for 30 days after Subtenant notifies Sublandlord of such failure, or such longer period of time as is reasonable if more than 30 days is reasonably required to perform this obligation if performance commences within this 30-day period and is diligently prosecuted to completion.
- (b) If Sublandlord is in Default, then Subtenant may exercise any remedy available under law that is not waived or limited under this Sublease, subject to the following:
  - (1) Subtenant may not terminate this Sublease due to any Sublandlord Default.
  - (2) No liability under this Sublease is assumed by Sublandlord's Affiliates.

### **16. MISCELLANEOUS**

**16.1 Rules and Regulations.** Subtenant will comply with the Rules and Regulations attached as Exhibit C, as the same may be modified or supplemented from time to time by Prime Sublandlord upon notice to Subtenant. If the Rules and Regulations conflict with this Sublease, the Sublease shall govern.

**16.2 Notice.** Notice to Sublandlord must be given to Sublandlord's Notice Addresses. Notice to Subtenant must be given to Subtenant's Notice Addresses. By notice to the other, either party may change its Notice Address. Each notice must be in writing and will be validly given if either: (a) the notice is personally delivered and receipt is acknowledged in writing; or (b) the notice is delivered by a nationally recognized overnight courier service (e.g., FedEx or Airborne Express) and receipt is acknowledged in writing. If the party to receive notice fails to either accept delivery or acknowledge its receipt in writing, then notice may be validly given by mailing the notice first-class, certified or registered mail, postage prepaid, and the notice will be deemed received by the party 2 business days after the deposit of the notice in the U.S. Mail.

**16.3 Intentionally Omitted.**

**16.4 Building Name.** Subtenant shall not use the Building's name or image for any purpose, other than Subtenant's address, without Prime Sublandlord's approval. Prime Sublandlord may change the name of the Building without any obligation or liability to Subtenant.

**16.5 Entire Agreement.** This Sublease is deemed integrated and contains all of each party's representations, waivers and obligations. The parties may only modify or amend this Sublease in a writing that is fully executed and delivered by each party.

**16.6 Successors.** Unless provided to the contrary elsewhere in this Sublease, this Sublease binds and inures to the benefit of each party's heirs, successors and permitted assignees.

**16.7 No Waiver.** A party's waiver of a breach of this Sublease will not be considered a waiver of any other breach. No custom or practice that develops between the parties will prevent either party from requiring strict performance of the terms of this Sublease. No Sublease provision or act of a party creates any relationship between the parties other than that of sublandlord and subtenant.

**16.8 Independent Covenants.** The covenants of this Sublease are independent. A court's declaration that any part of this Sublease is invalid, void or illegal will not impair or invalidate the remaining parts of this Sublease, which will remain in full force and effect.

**16.9 Captions.** The use of captions, headings, boldface, italics or underlining is for convenience only, and will not affect the interpretation of this Sublease.

**16.10 Authority.**

- (a) Individuals signing this Sublease on behalf of Subtenant represent and warrant that they are authorized to bind Subtenant to this Sublease, and that Subtenant is qualified to do business in the State of Michigan. If required by Sublandlord, Subtenant will, at Subtenant's cost, provide Sublandlord with a corporate resolution or other documentation acceptable to Sublandlord proving the authority of each individual signatory to bind Subtenant to this Sublease.
- (b) Subtenant represents and warrants to Sublandlord that Subtenant is not named on the list of Specially Designated Nationals and Blocked Persons maintained by the Office of Foreign Assets Control of the United States Department of the Treasury or any such similar list maintained by the state or federal government.
- (c) Subtenant represents and warrants to Sublandlord that any individual or entity involved in this Sublease transaction on behalf of Subtenant is not named on the list of Specially Designated Nationals and Blocked Persons maintained by the Office of Foreign Assets Control of the United States Department of the Treasury or any such similar list maintained by the state or federal government.

**16.11 Applicable Law.** The laws of Michigan govern this Sublease. In any action brought under this Sublease, Subtenant submits to the jurisdiction of the courts of the State of Michigan, and to venue in the County of Wayne.

**16.12 Confidentiality.** Subtenant will not record this Sublease or a memorandum of this Sublease without Sublandlord's written consent. Subtenant will keep the terms of this Sublease confidential and, unless required by law, may not disclose the terms of this Sublease to anyone other than Subtenant's Affiliates to the extent necessary to Subtenant's business.

**16.13 Reasonableness.** Subtenant's sole remedy for any claim against Sublandlord that Sublandlord has unreasonably withheld or unreasonably delayed any consent or approval shall be an action for injunctive or declaratory relief, it being acknowledged and agreed that no such claim may be asserted against Sublandlord except where Sublandlord has expressly agreed in this Sublease that it may not unreasonably withhold or delay its consent or approval.

**16.14 Time.** Time is of the essence as to all provisions in this Sublease in which time is a factor.

**16.15 Quiet Enjoyment.** So long as Subtenant is not in default of this Sublease and except as provided in the Sublease, Sublandlord will not interfere with Subtenant's peaceful and quiet enjoyment of the Premises for the Term. Sublandlord is not liable for, and Subtenant will not be released from any obligation under this Sublease because of any interference with Subtenant's peaceful and quiet enjoyment of the Premises that is caused by any other person, including other subtenants.

**16.16 Right to Enter Premises.** Sublandlord may enter the Premises at any reasonable time to inspect the Premises, to show the Premises to prospective lenders, purchasers, assignees or subtenants, or to perform Sublandlord's duties under this Sublease. If any Leasehold Improvements are damaged by Sublandlord as a result of Sublandlord exercising its rights under this §16.16, then Sublandlord will repair or replace the damaged portion, only, to match the original as nearly as is commercially reasonable.

**16.17 Subtenant's Authorizing Body.** Sublandlord and Subtenant understand and agree that Subtenant's authorizing body, Grand Valley State University ("GVSU"), has not agreed to assume, undertake or in any way guarantee payment of the Subtenant's obligations under this Sublease from any source of revenue available to GVSU, including the administrative fee deducted by GVSU from the state school aid payments received by GVSU for the Subtenant, nor has it agreed to assume, undertake or in any way guarantee performance or Subtenant's non-monetary obligations under this Sublease.

**16.18 Exhibits.** The exhibits attached to this Sublease are incorporated herein. If any exhibit is inconsistent with the terms of this Sublease, the provisions of the Exhibit will govern. The Exhibits to this Sublease are:

EXHIBIT A	Location of Premises
EXHIBIT B	Legal Description of Project
EXHIBIT C	Rules and Regulations
EXHIBIT D	Intentionally Deleted
EXHIBIT E	Notice of Sublease Term
EXHIBIT F	Work Letter
EXHIBIT G	Prime Sublease

## **17. RENEWAL OPTION**

Subtenant shall have eighteen (18) options to renew this Sublease (each a "Renewal Option") for eighteen (18) additional terms of five (5) years each (each a "Renewal Term") upon the same terms, covenants and conditions as are contained in this Sublease except that no Base Rent shall be payable for any Renewal Term. Subtenant must exercise a Renewal Option by giving written notice thereof to Sublandlord at least twelve (12) months prior to the expiration of the Term, as the same may have been renewed (the "Notice"). The Notice shall be effective only if (a) on the date the Notice is given no Default exists, (b) Subtenant exercises or has exercised its option to renew the CUE Building Sublease pursuant to the terms thereof for the corresponding Renewal Term, (c) Sublandlord exercises or has exercised its option to renew the Prime Sublease for an additional term of ninety (90) years pursuant to the terms of the Prime Sublease, and (d) Sublandlord exercises or has exercised its option to renew the TEF Building Sublease for an additional term of eighty (80) years pursuant to the terms of the TEF Building Sublease.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**WITNESSES:**

John G. Cleary  
John G. Cleary  
Cathy Ebeyer  
Cathy Ebeyer

**SUBLICENSOR:**

**TEF-SIX, LLC, a Michigan limited liability company**

By: WAA  
Its: Manager

**SUBLICENSEE:**

**CREATIVE URBAN EDUCATION, INC.,  
a Michigan non-profit corporation**

\_\_\_\_\_  
By: \_\_\_\_\_  
\_\_\_\_\_  
Its: \_\_\_\_\_



IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

WITNESSES:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SUBLICENSOR:

TEF-SIX, LLC, a Michigan limited liability company

By: \_\_\_\_\_

Its: \_\_\_\_\_

SUBLICENSEE:

CREATIVE URBAN EDUCATION, INC.,  
a Michigan non-profit corporation

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By: *[Signature]*

Its: Treasurer

[Parking Sublicense Agreement – Signature page]

**EXHIBIT A – LOCATION OF PREMISES**  
**Argonaut Building/Detroit, MI**  
**Gymnasium**

## **EXHIBIT B - LEGAL DESCRIPTION OF PROJECT**

### **Argonaut Building/Detroit, MI**

#### **Argonaut Parcel**

Land situated in the City of Detroit, County of Wayne, State of Michigan described as follows:

Lots 27 through 60 inclusive, including the vacated alley (16 feet wide) lying adjacent to said lots of "Leavitt's Subdivision of that part of fractional Section 31, Town 1 South, Range 12 East, bounded by Milwaukee and Woodward Avenues, Grand Trunk Railroad and rear line of private claims and west line of said fractional Section 31 also Lots 8 to 17 both inclusive, part of Block 5 of Henry Weber's Subdivision of part of fractional Section 31 and 36 Town 1 South, Range 11 and 12 East and part of the Baker and Forsyth Farms" City of Detroit, Wayne County, Michigan as recorded in Liber 9 of Plats on Page 17, Wayne County Records and being more particularly described as follows: Beginning at the Southwesterly corner of Milwaukee Avenue (60 feet wide) and Cass Avenue (80 feet wide), said point being also the Northeasterly corner of Lot 27 of said "Leavitt's Subdivision" (Liber 9, Plats, Page 17, Wayne County Records); proceeding thence from said point of beginning South 26 degrees 18 minutes 49 seconds East, along the Westerly line of said Cass Avenue, said line being also the Easterly line of Lot 27, the Easterly end of a vacated alley (16 feet wide) and the Easterly line of Lot 60 of said "Leavitt's Subdivision", a measured distance of 231.07 feet (recorded 231.00 feet) to the Northwesterly corner of Baltimore Avenue (60 feet wide) and said Cass Avenue, said point being also the Southeasterly corner of said Lot 60; thence South 63 degrees 11 minutes 25 seconds West, along the Northerly line of said Baltimore Avenue, said line being also the Southerly line of Lots 60 through 44 inclusive of said subdivision, a measured distance of 522.05 feet (recorded 521.66 feet) to the Northeasterly corner of Second Avenue (80 feet wide) and said Baltimore Avenue, said point being also Southwesterly corner of said Lot 44; thence North 26 degrees 18 minutes 05 seconds West, along the Easterly line of said Second Avenue, said line being also the Westerly line of Lot 44, the Westerly end of said vacated alley and the Westerly line of Lot 43 of said subdivision, a measured distance of 231.07 feet (recorded 231.00 feet) to the Southeasterly corner of said Milwaukee and Second Avenue, said point being also the Northwesterly corner of said Lot 43; thence North 63 degrees 11 minutes 25 seconds East, along the Southerly line of said Milwaukee Avenue, said line being also the Northerly line of Lots 43 through 27 inclusive, a measured distance of 522.00 feet (described 521.66 feet) to the point of beginning.

#### **Second and Baltimore Parcel**

Land situated in the City of Detroit, County of Wayne, State of Michigan, described as follows:

Lots 116 and 117 of "Leavitt's Subdivision of that part of fractional Section 31, Town 1 South, Range 12 East", City of Detroit, Wayne County, Michigan as recorded in Liber 9 of Plats on Page 17, Wayne County Records and being more particularly described as follows: Beginning at the Southeasterly corner of Lot 117 of said "Leavitt's Subdivision" (Liber 9, Plats, Page 17, Wayne County Records), said point being also the Northwesterly corner of Baltimore Avenue (60 feet wide) and Second Avenue (80 feet wide); proceeding thence from said point of beginning South 63 degrees 11 minutes 00 seconds West, along the Northerly line of said Baltimore Avenue, said line being also the Southerly line of Lots 117 and 116 of said subdivision, a measured distance of 72.31 feet (recorded 72.15 feet) to the Southwesterly corner of said Lot 116; thence North 26 degrees 13 minutes 50 seconds West, along the Westerly line of said Lot 116, a distance of 107.50 feet to the Northwesterly corner of said lot; thence North 63 degrees 11 minutes 00 seconds East, along the Southerly line of a public alley (16 feet wide), said line being also the Northerly line of Lots 116 and 117 of said subdivision, a measured distance of 72.21 feet (recorded 72.15 feet) to the Northeasterly corner of said Lot 117; thence South 26 degrees 16 minutes 46 seconds East, along the Westerly line of said Second Avenue, said line being also the Easterly line of said Lot 117, a distance of 107.50 feet to the point of beginning.

## **EXHIBIT C – RULES & REGULATIONS**

### **Argonaut Building/Detroit, MI**

**“Rules and Regulations” mean the contents of this Exhibit C, as modified, amended or revoked by Sublandlord, from time to time.**

1. **Right to Exclude.** Prime Sublandlord may require that Subtenant, its Affiliates and guests comply with each reasonable security measure that Prime Sublandlord may establish as a condition for entry to the Premises, Building or Project. These measures may include submitting to a search by persons or devices employed by Prime Sublandlord, presenting an identification card or pass issued by the government, Prime Sublandlord, or both, being announced to Subtenant and accepted as a visitor by Subtenant, and signing a register on entry and exit. Any person who cannot comply with these requirements may be excluded from the Project. If Prime Sublandlord requires a Building pass issued by Prime Sublandlord as a condition of entry to the Premises, Building or Project, Prime Sublandlord will furnish a Building pass to all persons reasonably designated by Subtenant in writing. Prime Sublandlord may exclude or expel from the Project any person who, in Prime Sublandlord's reasonable opinion, is intoxicated or under the influence of alcohol or drugs. Prime Sublandlord may require Subtenant and its Affiliates and guests to enter and exit the Building from those entrances designated by Prime Sublandlord from time to time.

2. **Obstructions.** Subtenant will not cause the Common Areas, or sidewalks or driveways outside the Building to be obstructed. Prime Sublandlord may remove, at Subtenant's expense, any such obstruction without prior notice to Subtenant.

3. **Trash.** Subtenant will place trash in proper receptacles in the Premises provided by Subtenant at Subtenant's cost, or in Building receptacles designated by Sublandlord. Subtenant may not litter in the Common Areas, or sidewalks or driveways outside the Building.

4. **Public Safety.** Subtenant will not throw anything out of doors, windows or skylights, down passageways or over walls. Subtenant will not use any fire exits or stairways in the Building except in case of emergency.

5. **Keys and Locks.** Prime Sublandlord may from time to time install and change locks on entrances to the Project, Building, Common Areas or Premises, and will provide Subtenant a number of keys to meet Subtenant's reasonable requirements. Additional keys will be furnished by Prime Sublandlord at Subtenant's cost. At the end of the Term, Subtenant will promptly return to Prime Sublandlord all keys for the Building and Premises issued by Prime Sublandlord to Subtenant. Unless Subtenant obtains Prime Sublandlord's prior written consent, Subtenant will not add or change any locks on any door to, in or about the Premises. If with Prime Sublandlord's consent, Subtenant installs any lock incompatible with the Building master locking system, Subtenant will: relieve (and Sublandlord will relieve) Prime Sublandlord of each Prime Sublease obligation that requires access to each affected area; indemnify Prime Sublandlord against any Claims resulting from forced entry to each affected area in an emergency; and, at the end of the Term, remove each incompatible lock and replace it with a Building Standard lock at Subtenant's expense.

6. **Aesthetics.** Unless Subtenant obtains Prime Sublandlord's prior written consent (which may be withheld in Prime Sublandlord's sole and absolute discretion), Subtenant may not:

- (a) Attach any awnings, signs, displays or projections to either the outside walls or windows of the Building, or to any part of the Premises visible from outside the Premises;
- (b) Hang any non-Building Standard curtains, blinds, shades or screens in any window or door of the Premises;
- (c) Coat or sunscreen the interior or exterior of any windows; or
- (d) Place any objects on windowsills.

7. **HVAC Operation.** Subtenant will not obstruct the HVAC convectors or diffusers, or adjust or interfere with the HVAC system. Subtenant will assist the HVAC system in maintaining comfort in the Premises by drawing shades, blinds and other window coverings in the Premises as may be reasonably required. Subtenant may not use any method of heating or cooling the Premises other than that supplied by Prime Sublandlord.

8. **Plumbing.** Subtenant will use plumbing fixtures only for the purpose for which they are constructed. Subtenant will reimburse Prime Sublandlord for any damage caused by Subtenant's misuse of plumbing fixtures.
9. **Equipment Location.** Prime Sublandlord may specify the location of any of Subtenant's business machines, mechanical equipment or other property that are unusually heavy, may damage the Building, or may cause vibration, noise or annoyance to other subtenants. Subtenant will reimburse Prime Sublandlord for any professional engineering certification or assistance reasonably required to determine the location of these items.
10. **Bicycles.** Subtenant may not bring bicycles or other vehicles into the Building or Premises except, to the extent permitted by the Sublease, for the parking of Vehicles in the parking spaces located within the basement of the Building. Bicycles and other vehicles may only be parked in areas designated by Prime Sublandlord.
11. **Animals.** Subtenant may not bring any birds or animals, excepting seeing-eye/assistance dogs, into the Building or Premises.
12. **Carpet Protection.** To protect carpeting in the Premises, Subtenant will, at its own expense, install and maintain pads to protect the carpet under all furniture having castors other than carpet castors.
13. **Elevators.** Any use of the elevators for purposes other than normal passenger use (such as moving to or from the Building or delivering freight), whether during or after business hours, must be scheduled through the office of the Property Manager or if there is no Property Manager, through the Prime Sublandlord. Subtenant will reimburse Prime Sublandlord for any extra costs incurred by Prime Sublandlord in connection with any such non-passenger use of the elevators.
14. **Moving and Deliveries.** Subtenant's movers are subject to Prime Sublandlord's reasonable approval. Moving of Subtenant's Personal Property and deliveries of materials and supplies to the Premises must be made during the times and through the entrances, elevators and corridors reasonably designated by Prime Sublandlord. Moving and deliveries may not be made through any of the main entrances to the Building without Prime Sublandlord's prior permission. Any hand truck or other conveyance used in the Common Areas must be equipped with rubber tires and rubber side guards to prevent damage to the Building and its property. Subtenant will promptly reimburse Prime Sublandlord for the cost of repairing any damage to the Building or its property caused by any person making deliveries to the Premises.
15. **Solicitation.** Canvassing, soliciting and peddling in the Project are prohibited and Subtenant will cooperate in preventing the same.
16. **Food.** Only persons approved from time to time by Prime Sublandlord may prepare, solicit orders for, sell, serve or distribute food in or around the Project. Except as may be specified in the Sublease or on construction drawings for the Premises approved by Prime Sublandlord, and except for microwave cooking, Subtenant will not use the Premises for preparing or dispensing food, or soliciting of orders for sale, serving or distribution of food.
17. **Work Orders.** Only authorized representatives of Subtenant may request services or work on behalf of Subtenant. Subtenant may not request that Building employees perform any work outside of their duties assigned by Prime Sublandlord.
18. **Smoking.** Neither Subtenant nor its Affiliates shall smoke or permit smoking in any part of the Premises or Building. In addition, neither Subtenant nor its Affiliates shall smoke or permit smoking in any part of the Project located outside of the Building in which Prime Sublandlord, in Prime Sublandlord's sole discretion, prohibits smoking or in which smoking is prohibited by law. Sublandlord may designate the entire Project a no-smoking area.
19. **Space Heaters.** No space heaters or similar devices may be used within the Premises without Prime Sublandlord's consent.
20. **Rules Applied.** These Rules and Regulations apply equally to Subtenant's Affiliates and others permitted by Subtenant to access, use or occupy the Premises.

**EXHIBIT D – INTENTIONALLY DELETED**

**EXHIBIT E – NOTICE OF SUBLEASE TERM**  
**Argonaut Building/Detroit, MI**

This NOTICE OF SUBLEASE TERM, NLT, is given by Creative Urban Education, Inc., Subtenant, to TEF-Six, LLC, Sublandlord, with respect to that certain Sublease dated \_\_\_\_\_, Sublease, under which Subtenant has subleased from Sublandlord a gymnasium building located adjacent to the Argonaut Building.

In consideration of the mutual covenants and agreements stated in the Sublease, and intending that this Agreement may be relied upon by Sublandlord and any prospective purchaser or present or prospective Encumbrance holder, Subtenant certifies and confirms the following:

- (a) The Commencement Date is \_\_\_\_\_, 20\_\_\_\_
- (b) The Expiration Date is \_\_\_\_\_, 20\_\_\_\_.

Except for those terms expressly defined in this NLT, all initially capitalized terms will have the meanings stated for such terms in the Sublease.

EXECUTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 200\_\_.

**{SUBTENANT}**

By: \_\_\_\_\_  
Print: \_\_\_\_\_  
Title: \_\_\_\_\_

**{SUBLANDLORD}**

By: \_\_\_\_\_  
Print: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT F – WORK LETTER**  
**(TURNKEY-PRIME SUBLANDLORD PREPARES CONSTRUCTION DOCUMENTS)**

**Argonaut Building/Detroit, MI**  
**Gymnasium**

1. **Conflicts; Terms.** If there is any conflict or inconsistency between the provisions of the Sublease and those of this Exhibit F ("Work Letter"), the provisions of this Work Letter will control. Except for those terms expressly defined in this Work Letter, all initially capitalized terms will have the meanings stated for such terms in the Sublease. The following terms, which are not defined in the Sublease, have the meanings indicated:

(a) "Sublandlord's Representative" means John Cleary, or such other person as may be designated by Sublandlord from time to time.

(b) "Subtenant's Representative" means Adriana Calderon, or such other person as may be designated by Subtenant from time to time.

(c) "Tenant Improvements" means the gymnasium building and all other alterations, improvements and installations to be constructed or installed by Prime Sublandlord according to the Work Letter attached to the Prime Sublease (the "Prime Sublease Work Letter"). In no event will the Tenant Improvements include any furniture, fixtures or equipment (including telecommunications and security system cabling and equipment) except for any equipment expressly provided for in the Construction Documents approved by Prime Sublandlord, as the same may be revised from time to time with the approval of Prime Sublandlord.

(d) "Preliminary Plans" means those preliminary plans and specifications for the Tenant Improvements approved by Sublandlord and Subtenant.

(e) "Construction Documents" means complete construction plans and specifications for the Tenant Improvements.

(f) "Total Cost" means the total cost of preparing and revising the Preliminary Plans and Construction Documents, obtaining all necessary permits, constructing and installing the Tenant Improvements (including any changes or additional work pursuant to Change Orders), providing any services required during construction (such as electricity and other utilities, refuse removal and housekeeping), and the cost of construction administration or management services provided by a third party or parties.

2. **Sublandlord's Obligations.** Sublandlord will tender possession of the Premises to Subtenant when Prime Sublandlord has tendered possession of the Premises to Sublandlord and the Tenant Improvements have been completed by Prime Sublandlord to the extent that only minor construction details, which would not materially interfere with Subtenant's use and enjoyment of the Premises, require completion or correction ("Substantially Completed or Substantial Completion"). Subtenant will accept the Premises when Sublandlord tenders possession, provided that the Tenant Improvements have been Substantially Completed, and provided further that Subtenant will not be required to accept possession prior to the Scheduled Commencement Date. Sublandlord and Subtenant agree that all Tenant Improvements, whether paid for by Prime Sublandlord, Sublandlord or Subtenant, will, without compensation to Subtenant, become Prime Sublandlord's property upon installation and will remain Prime Sublandlord's property at the expiration or earlier termination of the Term.

3. **Punch List.** Subtenant's taking possession of any portion of the Premises will be conclusive evidence that such portion of the Premises was in good order and satisfactory condition when Subtenant took



possession, except as to any patent defects identified on a punch list prepared and signed by Prime Sublandlord's Representative, Sublandlord's Representative and Subtenant's Representative after an inspection of the Premises by such parties when Subtenant takes possession, and except as to any latent defects of which Subtenant notifies Prime Sublandlord in writing within one year after the Commencement Date. Failure to advise Prime Sublandlord in writing within one year of the Commencement Date of any latent defects shall result in a waiver of any claims regarding said defects by Subtenant. Sublandlord will not be responsible for any items of damage caused by Subtenant, its agents, independent contractors or suppliers. No promises to alter, remodel or improve the Premises or Project and no representations concerning the condition of the Premises or Project have been made by Sublandlord to Subtenant other than as may be expressly stated in the Sublease (including this Work Letter).

4. **Representatives.** Sublandlord appoints Sublandlord's Representative to act for Sublandlord in all matters covered by this Work Letter. Subtenant appoints Subtenant's Representative to act for Subtenant in all matters covered by this Work Letter. All inquiries, requests, instructions, authorizations and other communications with respect to the matters covered by this Work Letter will be made to Sublandlord's Representative or Subtenant's Representative, as the case may be. Subtenant will not make any inquiries of or request to, and will not give any instructions or authorizations to, any other employee or agent of Sublandlord, including Sublandlord's architect, engineers and contractors or any of their agents or employees, with regard to matters covered by this Work Letter. Either party may change its Representative under this Work Letter at any time by prior written notice to the other party.

5. **Construction Documents; Construction of Tenant Improvements.** After the Preliminary Plans have been approved by Prime Sublandlord, Sublandlord and Subtenant, Prime Sublandlord will cause its architect to prepare the Construction Documents based strictly on the Preliminary Plans unless otherwise agreed to by Sublandlord and Subtenant or as otherwise provided in the Prime Sublease Work Letter. Subtenant will be given an opportunity to review the Construction Documents to confirm that, except as otherwise provided in the Prime Sublease Work Letter, they conform to the Preliminary Plans. While Sublandlord has no obligation to construct or install the Tenant Improvements, Sublandlord shall, upon Subtenant's request and at Subtenant's expense, use reasonable efforts to cause the Prime Sublandlord to construct and install the Tenant Improvements in accordance with the Prime Sublease Work Letter. If Sublandlord requests any changes to the Construction Documents (other than changes required to, except as otherwise provided in the Prime Sublease Work Letter, make the same conform to the Preliminary Plans), and if such changes result in an increase in the cost of constructing or installing the Tenant Improvements, then Sublandlord will pay Prime Sublandlord for such increase; provided, however, that Sublandlord may not request any changes to the Construction Documents (other than changes required to, except as otherwise provided in the Prime Sublease Work Letter, make the same conform to the Preliminary Plans) without Subtenant's approval.

6. **Change Orders.** Sublandlord's Representative may authorize changes in the work (including work in addition to the Tenant Improvements) during construction only by written instructions to Prime Sublandlord's Representative on a form approved by Prime Sublandlord and with the consent of Subtenant. All such changes will be subject to Prime Sublandlord's prior written approval according to Paragraph 7 below. Any Change Order issued in connection with any such change pursuant to the Prime Sublease Work Letter shall be subject to the approval of Subtenant. Sublandlord will pay the total cost of any Change Orders approved by Prime Sublandlord and Subtenant within 10 days of Prime Sublandlord's approval of same unless Sublandlord and Subtenant have agreed in writing that the cost of any such Change Order shall be paid by Subtenant.

7. **Sublandlord's Approval.** All Construction Documents and Change Orders, and any drawings, plans and specifications for any changes or additions reflected in Change Orders or any other improvements or installations in the Premises, are expressly subject to Prime Sublandlord's prior written approval, which approval may be withheld for the reasons set forth in the Prime Sublease Work Letter.

8. **Subtenant's Delays.** As provided in Section 3.1 of the Sublease, the Term of the Sublease (and therefore Subtenant's obligation for the payment of Rent) will not commence until Prime Sublandlord has Substantially Completed the Tenant Improvements; provided, however, that if Prime Sublandlord is delayed in Substantially Completing the Tenant Improvements for any of the reasons enumerated in Section 8 of the Prime Sublease Work Letter, then the Commencement Date will only be extended under Section 3.1 of the Sublease until the date on which Prime Sublandlord would have Substantially Completed the Tenant Improvements.

9. **General.** No approval by Prime Sublandlord or Sublandlord or Prime Sublandlord's architect or engineer of any drawings, plans or specifications which are prepared in connection with construction of improvements in the Premises will constitute a representation or warranty by Prime Sublandlord or Sublandlord as to the adequacy or sufficiency of such drawings, plans or specifications, or the improvements to which they relate, for any use, purpose or condition, but such approval will merely be the consent of Prime Sublandlord or Sublandlord to the construction or installation of improvements in the Premises according to such drawings, plans or specifications. Failure by Subtenant to pay any amounts due under this Work Letter will have the same effect as failure to pay Rent under the Sublease, and such failure or Subtenant's failure to perform any of its other obligations under this Work Letter will constitute a Default under Section 15.1(a) of the Sublease, entitling Sublandlord to all of its remedies under the Sublease as well as all remedies otherwise available to Sublandlord.

**EXHIBIT G – PRIME SUBLEASE**  
**ARGONAUT BUILDING/DETROIT, MI**

Attached



## SUBLEASE SUBORDINATION AGREEMENT

This Agreement is dated as of September 30, 2008, among **Argonaut Building Master Tenant LLC**, a Michigan limited liability company, whose address is c/o College for Creative Studies, 201 E. Kirby, Detroit, Michigan 48202-4034 (the "Sublandlord") **TEF-SIX, LLC**, a Michigan limited liability company, whose address is c/o Thompson Educational Foundation, P.O. Box 6349, Plymouth, Michigan 48170 (the "Subtenant"); and **JPMorgan Chase Bank, N.A.**, a national banking association, with offices at 611 Woodward, Detroit, Michigan 48226 (the "Bank").

(A) Argonaut Campus Developer LLC (the "Master Landlord") is the owner in fee of real property described in the attached Exhibit A (the "Premises").

(B) The Sublandlord, as tenant, and the Master Landlord as Landlord, entered into a Master Lease dated July 24, 2008 (as amended, extended, and/or renewed from time to time, the "Master Lease"), covering the Premises.

(C) The Sublandlord and Subtenant entered into a Sublease dated September 30, 2008 (as amended, extended, and/or renewed from time to time, the "Sublease"), covering that portion of the Premises described on Exhibit A-1 (the "Subleased Premises").

(D) The Master Landlord has applied to the Bank for and the Bank has given to Master Landlord a loan evidenced and secured by, among other things, a Construction Loan and Security Agreement dated July 24, 2008 (the "Loan Agreement") and a Mortgage dated July 24, 2008 covering the Premises (with all extensions, renewals, modifications, and substitutions, the "Mortgage").

(E) The Subtenant desires to be assured of continued occupancy of the Leased Premises under the terms of the Sublease, but subject to the terms of the Loan Agreement and Mortgage.

Therefore, the parties agree as follows:

1. The Sublease (including any option to purchase the Premises or the Subleased Premises contained in the Sublease, as well as any rights of first refusal) is and shall at all times continue to be subordinate in every respect to the Loan Agreement and Mortgage, including but not limited to, subject to the terms of paragraph 9 below, the right of the Bank to receive and to apply insurance proceeds and condemnation awards relating to the Premises and/or the

Sublease  
TEF-Six (Gym)  
9/24/08

Subleased Premises as provided in the Loan Agreement; provided, however, that the Bank may at any time, in its sole discretion, declare the Sublease to be superior to the lien, provisions, and operation of the Loan Agreement and Mortgage. If there is any conflict between any provision of the Sublease and any provision of the Loan Agreement or Mortgage, the provision in the Loan Agreement or Mortgage, as the case may be, shall control, subject to the terms of this agreement.

2. Notwithstanding the foregoing, if the Subtenant is not in default under the Sublease or this agreement and if no event has occurred that would entitle the Sublandlord to terminate the Sublease, then (a) the Bank will not name or join the Subtenant in any foreclosure, exercise of a power of sale, sale by advertisement, or any other proceeding to enforce the Mortgage, unless the Bank must so name or join the Subtenant in order to perfect the foreclosure, the exercise of the power of sale, the sale by advertisement, or its rights under any other proceeding; (b) the Bank's enforcement of the Mortgage will not terminate the Sublease or disturb the Subtenant's use or possession of the Subleased Premises; and (c) the leasehold estate granted the Subtenant under the Sublease will not be affected in any manner by any foreclosure, exercise of a power of sale, sale by advertisement, or any other proceeding to enforce the Mortgage. Bank shall, if the Sublease was in effect and no Default (as defined in the Sublease) existed as of the date the Master Sublease terminated which is not waived by the Bank, upon Subtenant's request, and Subtenant shall in any event upon request of the Bank, enter into a new sublease of the Subleased Premises (the "New Sublease"), as lessor, with Subtenant, as lessee, upon, except as otherwise provided below, the same terms and conditions of the Sublease that would have been applicable to the unexpired term of the Sublease but for such termination of the Master Sublease or Subtenant's right to possession of the Subleased Premises with (i) the commencement date of the New Sublease to be the day immediately following the date that the Master Sublease is terminated or Subtenant's right to possession of the Subleased Premises is terminated, (ii) the term of the New Sublease to be equal to what would have been the unexpired term of the Sublease but for such termination of the Master Sublease or Subtenant's right to possession of the Subleased Premises. If the Bank fails to execute any such New Sublease, then the Bank shall nevertheless be deemed to have entered into the New Sublease with Subtenant and the Sublease, as modified by this paragraph, shall constitute a written instrument of sublease. If Subtenant's right to possession of the Subleased Premises is terminated without a termination of the Master Sublease and a New Sublease is entered into or deemed entered into pursuant to this paragraph, the Sublease shall be deemed to have terminated as of the commencement of the term of the New Sublease.

Notwithstanding the foregoing, the person acquiring the interest of the Sublandlord as a result of foreclosure, exercise of a power of sale, sale by advertisement, or any other proceeding to enforce the Mortgage, or by deed in lieu of foreclosure, including the Bank, and the successors and assigns of that purchaser or transferee (each, including the Bank, a "Purchaser"), shall not be:

(a) liable for any breach of the Sublease by, or any act or omission of, the Sublandlord or any prior Sublandlord of the Subleased Premises;

(b) subject to any claims or defenses of whatever nature that the Subtenant may have against the Sublandlord or any prior lessor of the Subleased Premises, or subject to any offsets, abatements, or deductions against rent that the Subtenant may have against the Sublandlord or any prior lessor of the Subleased Premises;

(c) bound by any rent or additional rent that the Subtenant may have paid to the Sublandlord or any prior lessor of the Subleased Premises more than one (1) month in advance;

(d) bound by any security deposit that the Subtenant may have paid to the Sublandlord or any prior lessor of the Subleased Premises, unless that deposit is held in an escrow account available to the Purchaser;

(e) bound by any amendment, modification, renewal, or extension of the Sublease that is made after the date of this agreement without the written consent of the Bank;

(f) bound by any assignment, sublease, mortgage, encumbrance, or any other disposition or transfer of all or any part of the Subtenant's interest under the Sublease or in the Subleased Premises that is made after the date of this agreement without the written consent of the Bank;

(g) bound by any provision in the Sublease obligating the Sublandlord (i) to erect or complete any building, (ii) to perform any construction work, (iii) to make any improvements whatsoever to the Premises or the Subleased Premises, or (iv) to provide funds, allowances, concessions, or rental abatements to the Subtenant for any of the purposes described in clauses (i), (ii), or (iii), unless those obligations are expressly assumed by the Purchaser;

(h) responsible for providing (or liable for not providing) any additional space for which the Subtenant has any option or right under the Sublease, unless the Purchaser expressly elects to provide same. The Subtenant agrees that it shall have no right to cancel or terminate the Sublease, abate rent, or assert any claim for damages or other monetary relief against the Purchaser as a result of the Purchaser's failure to provide any such space;

(i) liable under any indemnity provision of whatever nature contained in the Sublease, including, but not limited to, any environmental indemnification;

(j) liable for or have any responsibility related to any hazardous materials or other environmental conditions or contamination that existed on or under the Premises or the Subleased Premises prior to the Purchaser succeeding to the interest of the Sublandlord under the Sublease; or

(k) bound by any surrender, cancellation, or termination of the Sublease or the Subtenant's interest in the Subleased Premises, whether in whole or in part, unless either (i) the Bank has given its prior written consent thereto, or (ii) the surrender, cancellation, or termination is effected unilaterally by the Subtenant under a specific term of the Sublease; provided, however, that if the Subtenant's right to cancel, surrender, or terminate the Sublease and/or its interest in the Subleased Premises arises because of a default by the Sublandlord under the

Sublease, the Subtenant shall not terminate, cancel, or surrender the Sublease and/or its interest in the Subleased Premises because of that default unless (1) the Sublandlord is in default under the Sublease beyond any cure period provided in the Sublease; (2) the Subtenant has given the Bank prior written notice of the default as provided in paragraph 7 of this agreement; and (3) the cure period provided to the Bank in paragraph 7 has expired, and the Bank has not cured the default within that time.

3. If the interest of the Sublandlord under the Sublease is transferred by foreclosure, exercise of a power of sale, sale by advertisement, or any other proceedings for enforcement of the Mortgage, or by deed in lieu of foreclosure, the Subtenant will be bound to the Purchaser under the terms of the Sublease for the balance of the term remaining thereunder, together with any extensions or renewals, with the same effect as if the Purchaser were the lessor under the Sublease, and the Subtenant agrees to attorn to the Purchaser (including the Bank if it is the Purchaser) as its new landlord, this attornment to be effective and self-operative without the execution of any further instruments. Thereafter, the Sublease will continue in full force and effect as a direct lease between the Subtenant and the Purchaser under the terms and conditions set forth in the Sublease, except as those terms and conditions are modified by this agreement. Notwithstanding anything to the contrary in the Sublease, and subject to such other limitations as may be described in this agreement (including the exculpatory provisions of paragraph 4 below), the Bank or other Purchaser is responsible for performing only those covenants and obligations under the Sublease accruing after the Bank or other Purchaser (a) has acquired the Sublandlord's interest in the Premises and the Subleased Premises, and (b) has obtained possession and control of the Premises and the Subleased Premises. If the Bank becomes the Purchaser and then conveys its interest in the Premises to a third party, the Bank shall be released from all duties and obligations under the Sublease, whenever arising, after it has so conveyed its interest.

4. Notwithstanding any provision of this agreement or the Sublease, neither the Bank nor any other Purchaser (as well as any partner, shareholder, director, officer, member, manager, or employee of any Purchaser) has or will have any personal liability to the Subtenant, directly or indirectly, under or in connection with the Sublease or this agreement, and the Subtenant irrevocably waives and releases all such personal liability. The Subtenant will look solely to the Premises, and not to any other assets or property of the Bank or any other Purchaser, for the recovery of any damages or other monetary relief from the Bank or any other Purchaser (including any partner, shareholder, director, officer, member, manager, or employee of any Purchaser) relating to or arising out of any violation of, or failure to perform as required under, the Sublease or this agreement.

5. The Subtenant and the Sublandlord each certify and promise to the Bank that:

(a) As of the date of this agreement, the Sublease is in full force and effect and is unmodified (by "side letter" or otherwise) except as indicated by amendments attached to the Sublease.

(b) As of the date of this agreement, the Subtenant has not assigned, mortgaged, sublet, licensed, encumbered, or otherwise transferred or disposed of all or any part of its interest under the Sublease, except as follows:



(c) No rent has been paid or will be paid more than one (1) month in advance of its due date.

(d) As of the date of this agreement, the Subtenant has no charge, lien, or claim of offset under the Sublease or otherwise against rents or other charges due under the Sublease.

(e) Without the prior written consent of the Bank, (i) the Subtenant will not assign, sublet, license, mortgage, encumber, or otherwise transfer or dispose of all or any portion of its interest under the Sublease or in the Subleased Premises; (ii) neither the Sublease nor the Subtenant's interest in the Subleased Premises will be surrendered, cancelled, or terminated, unless that surrender, cancellation, or termination is effected unilaterally by the Subtenant under a specific term of the Sublease, subject to the terms of paragraph 7 of this agreement; and (iii) the Sublease will not be amended or modified (by "side letter" or otherwise), except that rents payable under the Sublease may be increased without the Bank's written consent.

(f) As of the date of this agreement, neither the Subtenant nor the Sublandlord is in default under the Sublease, nor do circumstances exist that with the passage of time, the giving of notice, or both, would constitute such a default.

(g) The Subtenant has no notice of prior assignment, hypothecation, or pledge of rents of the Sublease.

(h) As of the date of this agreement, there are no actions pending against the Subtenant, whether voluntary or involuntary, under the bankruptcy laws of the United States.

(i) The contingencies to effectiveness of the Sublease set forth in Section 3.4 of the Sublease have been satisfied.

On the Sublease Commencement Date, Sublandlord and Subtenant will execute and deliver to Bank the Commencement Date Agreement in the form of Exhibit B attached hereto.

6. **Certificates.** The Subtenant agrees at any time and from time to time to execute, deliver and acknowledge to the Sublandlord, to the Bank, or to any third party designated by the Sublandlord or by the Bank, within fifteen (15) days following the Sublandlord's or the Bank's written request therefor, (a) a statement in writing certifying that (i) the Sublease is in full force and effect, (ii) to Subtenant's actual knowledge, the Sublandlord is not in default thereunder (or specifying any defaults by the Sublandlord that the Subtenant alleges), (iii) rent has not been prepaid more than one (1) month in advance and (iv) any further information about the Sublease or the Subleased Premises that the Sublandlord, the Bank, or said third party may reasonably request; (b) a statement in writing that the Subtenant will recognize any new Sublandlord the assignee of the Sublandlord's rights under the Sublease; and (c) a statement in writing acknowledging or denying receipt of notice of any conditional or security assignment of the Sublease to any third party. The Subtenant understands that the Bank and/or prospective purchasers, other mortgagees or lessors of the Premises, or any part thereof, including the Subleased Premises, will rely on such certificates. The Subtenant's obligation to deliver such

certificates within fifteen (15) days, as described above, is a material obligation of the Subtenant hereunder and under the Sublease.

7. **Notice of Default Under Sublease.** The Subtenant will give the Bank prompt written notice (a "Default Notice") of any default by the Sublandlord under the Sublease if the default is such as to give the Subtenant a right (a) either immediately or after a period of time, to terminate, cancel, or surrender the Sublease and/or its interest in the Subleased Premises, (b) to reduce the rent payable under the Sublease, (c) to credit or set-off any amounts against future rents payable under the Sublease, or (d) to recover damages or other monetary relief from the Sublandlord. The Subtenant will not exercise any right to terminate, cancel, or surrender the Sublease and/or its interest in the Subleased Premises, sue for damages or other monetary relief, or seek or assert any other remedy (including abatement of, or set-off or credit against, rent payable under the Sublease) until:

(i) it has given the Bank the opportunity as provided in the Sublease, if any, plus one hundred twenty (120) days, plus

(ii) such reasonable period of time as is necessary thereafter to remedy the default identified in the Default Notice if the Bank has commenced and is diligently pursuing such remedy.

Notwithstanding the foregoing, the Subtenant agrees that the Bank shall have no obligation to remedy any such Sublandlord default. The Subtenant will give the same notice and opportunity to cure to any successor to or assignee of the Bank's interest in the Mortgage if, before any default by the Sublandlord under the Sublease, the successor or assignee gives written notice to the Subtenant of its acquisition of the Bank's interest in the Mortgage and designates the address to which the notice is to be sent. Notwithstanding the foregoing, neither the Bank nor any successor or assignee has any obligation to cure any default by the Sublandlord under the Sublease.

8. **Modification of Obligations or Loan Documents.** From time to time, the Bank may, without notice to or consent of the Subtenant and without impairing or affecting this agreement, do any of the following as to any of the Obligations or Loan Documents (as defined in the Loan Agreement): (a) amend, modify, extend, or renew any or all of the Obligations or Loan Documents; (b) change the rate of interest being charged on any or all of the Obligations or Loan Documents; (c) release the Master Landlord, any guarantor, any surety or any other third party from liability on any or all of the Obligations or Loan Documents; (d) compromise or settle the terms of any or all of the Obligations or Loan Documents; (e) forbear or agree to forbear from taking any action against the Master Landlord, any guarantor, any surety or any other party in regard to any or all of the Obligations; or (f) substitute, release, exchange, or take any other action in regard to any collateral, including the Premises, for any or all of the Obligations or Loan Documents.

9. **Condemnation Awards/Insurance Proceeds.** Notwithstanding any other term of this agreement, if all or any part of the Subleased Premises are damaged by casualty or taken as part of condemnation proceedings, the Bank will apply all Net Casualty Proceeds and Net

Condemnation Proceeds (as such terms are defined in the Loan Agreement; herein such terms are collectively, "Proceeds") for restoration of the Subleased Premises, subject to satisfaction of the following conditions as of each date that any Proceeds are to be disbursed for such restoration:

(a) The Sublease is in effect and has not been terminated by either the Sublandlord or the Subtenant, nor has it been modified without the Bank's consent in a way that is unsatisfactory to the Bank.

(b) The term of the Sublease remaining after restoration, in the Bank's reasonable opinion, is of a sufficient length to warrant economically the restoration of the Subleased Premises.

(c) The Master Landlord is not in default under any of the Loan Documents beyond any applicable cure period.

(d) The Subtenant is not in default under the Sublease beyond any applicable cure period.

(e) In the Bank's opinion, the Proceeds are sufficient to fully restore the Premises. If the Proceeds are not sufficient in the Bank's opinion to fully restore the Premises, the Master Landlord, Sublandlord or Subtenant must, within twenty (20) days after the Bank gives Master Landlord, Sublandlord and Subtenant written notice of its opinion, deposit funds with the Bank that, when added to the existing Proceeds in the Bank's possession, will be sufficient, in the Bank's opinion, to fully restore the Premises. These additional funds will be deemed Proceeds upon being deposited with the Bank and may be disbursed before any other Proceeds are disbursed.

(f) The Bank has approved in writing the plans and specifications for the restoration work on the Subleased Premises.

(g) The Master Landlord, Sublandlord and the Subtenant have each given the Bank authority, in form and substance reasonably acceptable to the Bank, (i) to supervise, together with the Subtenant, restoration of the Subleased Premises, and (ii) to disburse Proceeds (including any funds deposited from time to time with the Bank as provided in (e) above) according to the Bank's customary practices and procedures for construction loans for similar projects, including practices and procedures relating to title insurance and compliance with construction-lien laws.

(h) If portions of the Premises besides the Subleased Premises have also been damaged or affected by the casualty or taking, the project as a whole must, in the Bank's opinion, remain economically viable.

If any of the foregoing conditions is not met as of any date on which Proceeds are to be disbursed, then the Bank's obligations under this paragraph cease and the Bank may thereafter apply any Proceeds then or thereafter in its possession as provided in the Loan Agreement or any other agreement relating to any of the Obligations. Notwithstanding the foregoing, the Bank's

liability for restoration of the Subleased Premises after a casualty or taking is limited to Proceeds that are actually in the Bank's possession and control. In addition, the Bank's obligations under this paragraph are personal to the Subtenant; if the Subtenant terminates, surrenders, cancels, or assigns its interest under the Sublease, or if any third party succeeds to the Subtenant's rights under the Sublease, whether by operation of law or otherwise, the Bank has no obligations under this paragraph, and the Bank may thereafter exercise its rights in regard to any Proceeds as described in the Loan Agreement without any regard to the terms of this paragraph.

If, at the time the Bank would otherwise be obligated to disburse Proceeds pursuant to this paragraph 9, (i) a default under the Loan Agreement, other Loan Documents, or Sublease exists but the applicable cure period therefore has not yet expired or (ii) circumstances exist that with the passage of time, the giving of notice, or both, would constitute a default under the Loan Agreement, other Loan Documents or Sublease, the Bank may refuse to disburse such proceeds until such time as such default has been cured or such circumstances no longer exist; provided, however, that nothing contained in this sentence shall prevent the Bank from applying any Proceeds as provided in the Loan Agreement or any other agreement relating to any of the Obligations if any of the conditions set forth in (a) through (h) is not satisfied (including without limitation, if Landlord or Subtenant fails to cure a default before expiration of the applicable cure period pursuant to subparagraph (c) or (d) above after the Bank has refused to disburse Proceeds as provided in this paragraph).

**10. Conflicts.** If there is any conflict between any provision of this agreement and any provision of the Sublease, the provision in this agreement controls.

**11. Authority.** The person(s) signing this agreement on behalf of the Subtenant represent(s) to the Sublandlord and to the Bank that he/ she/they has/have authority to do so on behalf of the Subtenant.

**12. Binding Effect.** This agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. The Subtenant and the Sublandlord agree that the Bank may at any time sell or transfer all or any part of the Obligations to one or more purchasers, whether or not related to the Bank.

**13. Recording.** The parties hereto agree that this agreement may be recorded in the public records of Wayne County, Michigan.

**14. Captions.** Captions in this agreement are for convenience of reference only and do not limit the provisions of this agreement.

**15. Time.** Time is of the essence in this agreement.

**16. Information Waiver.** The Subtenant and the Sublandlord agree that the Bank may provide any information or knowledge the Bank may have about the Sublandlord, the Subtenant or any matter relating to this agreement or the Loan Documents to JPMorgan Chase & Co., or any of its subsidiaries or affiliates or their successors or to any one or more purchasers or potential purchasers of all or any part of the Obligations and/or any Loan Documents.

**17. Governing Law and Venue.** This agreement shall be governed by and construed in accordance with the laws of the State of Michigan (without giving effect to its laws of conflicts). The Sublandlord and the Subtenant agree that any legal action or proceeding with respect to any of their obligations under this agreement may be brought by the Bank in any state or federal court located in the State of Michigan, as the Bank in its sole discretion may elect. By the execution and delivery of this agreement, the Sublandlord and the Subtenant submit to and accept, for themselves and in respect of their property, generally and unconditionally, the non-exclusive jurisdiction of those courts. The Sublandlord and the Subtenant waive any claim that the State of Michigan is not a convenient forum or the proper venue for any such suit, action or proceeding.

**18. Notices.** All notices, requests and demands hereunder shall be in writing and deemed to have been given or made: if delivered in person, immediately upon delivery; if by facsimile transmission, immediately upon sending and upon confirmation of receipt; if by nationally recognized overnight courier service with instructions to deliver the next business day, one (1) business day after sending; and if by certified mail, return receipt requested, five (5) days after mailing. All notices, requests and demands upon the parties are to be given to the following addresses (or to such other address as any party may designate by notice in accordance with this Section):

If to Sublandlord:

Argonaut Building Master Tenant, LLC  
c/o College for Creative Studies  
201 E. Kirby  
Detroit, Michigan 48202-4034  
Attention: Anne D. Beck  
Vice President for Administration and Finance  
Telecopy No.: (313) 871-5530

If to Subtenant:

TEF-Six, LLC  
c/o Thompson Educational Foundation  
225 North Sheldon Road  
Plymouth, Michigan 48170  
Attention: John G. Cleary  
Telecopy No.: ( ) -

If to Bank:

JPMorgan Chase Bank, N.A.  
611 Woodward Avenue  
Detroit, Michigan 48226  
Attention: Specialized Industries  
Telecopy No.: (313) 256-0353

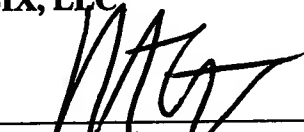
19. **WAIVER OF SPECIAL DAMAGES.** THE SUBLANDLORD AND THE SUBTENANT WAIVE, TO THE MAXIMUM EXTENT NOT PROHIBITED BY LAW, ANY RIGHT EITHER OF THEM MAY HAVE TO CLAIM OR RECOVER FROM THE BANK IN ANY LEGAL ACTION OR PROCEEDING ANY SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES.

20. **JURY WAIVER.** THE SUBLANDLORD, THE SUBTENANT AND THE BANK HEREBY VOLUNTARILY, KNOWINGLY, IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE (WHETHER BASED ON CONTRACT, TORT, OR OTHERWISE) AMONG ANY OF THE SUBLANDLORD, THE SUBTENANT AND/OR THE BANK ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT. THIS PROVISION IS A MATERIAL INDUCEMENT TO THE BANK TO PROVIDE OR CONTINUE PROVIDING THE OBLIGATIONS.

EXECUTED by each party on the date indicated below its signature, but effective as of the date first written above, which the Bank is authorized to insert.

SUBTENANT:

TEF-SIX, LLC

By: 

Its: MANAGER


Dated: September 29, 2008

### ACKNOWLEDGMENT OF SUBTENANT

State of Michigan

County of WAYNE

The foregoing instrument was acknowledged before me on September 29, 2008, by ROBERT THOMPSON, the MANAGER of TEF-SIX, LLC, a Michigan limited liability company, on behalf of the company.


  
ANDREW LIVINGSTON  
Notary Public, State of Michigan, County of LENNAWE  
My commission expires 4.1.2015  
Acting in the County of WAYNE

(Signatures continued on next page.)

**SUBLANDLORD:**

**ARGONAUT BUILDING MASTER  
TENANT LLC**

By: CCS Argonaut Holdings, Inc.,  
its Organizer and Manager

By:   
Anne D. Beck  
Its: Vice President

Dated: September 30, 2008

**ACKNOWLEDGMENT OF SUBLANDLORD**

State of Michigan  
County of Wayne

The foregoing instrument was acknowledged before me on September 30, 2008, by Anne D. Beck, the Vice President of CCS Argonaut Holdings, Inc., a Michigan corporation, the Organizer and Manager of ARGONAUT BUILDING MASTER TENANT, LLC, a Michigan limited liability company, on behalf of the corporation and company.



Notary Public, State of Michigan, County of ~~Wayne~~ Macomb  
My commission expires Nov. 17, 2010  
Acting in the County of Wayne

(Signatures continued on the following page.)

**Bank:**

**JPMorgan Chase Bank, N.A.**

By: Amy J. Bourgeois  
Amy J. Bourgeois  
Its: Vice President

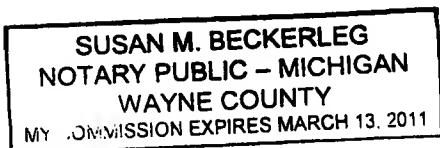
Dated: Sept 30 2008

**ACKNOWLEDGMENT OF BANK**

State of Michigan  
County of Wayne

The foregoing instrument was acknowledged before me on September 30, 2008, by Amy J. Bourgeois, a Vice President of JPMorgan Chase Bank, N.A., a national banking association, on behalf of the association.

Susan M. Beckerleg  
Notary Public, State of Michigan, County of Wayne  
My commission expires 3-13-2011  
Acting in the County of Wayne



**Drafted By:**

Stephen E. Dawson, Esq.  
Dickinson Wright PLLC  
38525 Woodward Avenue  
Suite 2000  
Bloomfield Hills, MI 48304

**When Recorded, Return To:**

Stephen E. Dawson, Esq.  
Dickinson Wright PLLC  
38525 Woodward Avenue, Suite 2000  
Bloomfield Hills, MI 48304

BLOOMFIELD 7-4171 929146v4



## **EXHIBIT A**

### **PREMISES**

#### **ARGONAUT PARCEL**

Land situated in the City of Detroit, County of Wayne, State of Michigan described as follows:

##### **Parcel A:**

Lots 27 through 30 inclusive, including  $\frac{1}{2}$  of the vacated alley along the rear thereof; Lots 31 through 49, inclusive, the West 10 feet of Lot 50, Lots 51 and 52, the West 5 feet and the East 15 feet of Lot 53, Lots 54 through 60 inclusive, including the  $\frac{1}{2}$  of vacated alley along the rear thereof, except the East 5 feet of Lot 56, and also except the West 15 feet of Lot 57 deeded to the City of Detroit for alley purposes, LEAVITTS' SUBDIVISION, as recorded in Liber 9, Page 17 of Plats, Wayne County Records.

##### **Parcel B:**

The East 20 feet of Lot 50, LEAVITT'S SUBDIVISION, as recorded in Liber 9, Page 17 of Plats, Wayne County Records.

##### **Parcel C:**

The East 5 feet of Lot 56 and the West 15 feet of Lot 57, LEAVITT'S SUBDIVISION, as recorded in Liber 9, Page 17 of Plats, Wayne County Records.

##### **Combined Parcels A, B and C:**

Lots 27 through 60 inclusive, including vacated alley (16 feet wide) lying adjacent to said lots in LEAVITT'S SUBDIVISION, bounded by Milwaukee and Woodward Avenues, Grand Trunk Railroad and the rear line of private claims and West line of said fractional Section 31, also Lots 8 through 17 both inclusive, part of Block 5 of HENRY WEBER'S SUBDIVISION, and part of the BAKER AND FORSYTHE FARMS, City of Detroit, Wayne County, Michigan, as recorded in Liber 9, Page 17 of Plats, Wayne County Records, and being more particularly described as follows: Beginning at the Southwesterly corner of Milwaukee Avenue (60 feet wide) and Cass Avenue (80 feet wide), said point being also the Northeasterly corner of Lot 27 of said LEAVITT'S SUBDIVISION, as recorded in Liber 9, Page 17 of Plats, Wayne County Records; proceeding thence from said point of beginning South 26 degrees 18 minutes 49 seconds East along the Westerly line of said Cass Avenue, said line being also the Easterly line of Lot 27, the Easterly end of a vacated alley (16 feet wide) and the Easterly line of Lot 60 of said LEAVITT'S SUBDIVISION, a measured distance of 231.07 feet (recorded 231.00 feet) to the Northwesterly corner of Baltimore Avenue (60 feet wide) and said Cass Avenue, said point being also the Southeasterly corner of said Lot 60; thence South 63 degrees 11 minutes 25 seconds West, along the Northerly line of said Baltimore Avenue, said line being also the Southerly line of Lots 60 through 44 inclusive, of said subdivision, a measured distance of 522.05 feet (recorded 521.66

feet) to the Northeasterly corner of Second Avenue (80 feet wide) and said Baltimore Avenue, said point being also Southwesterly corner of said Lot 44; thence North 26 degrees 18 minutes 05 seconds West, along the Easterly line of said Second Avenue, said line being also the Westerly line of Lot 44, the Westerly end of said vacated alley and the Westerly line of Lot 43 of said subdivision, a measured distance of 231.07 feet (recorded 231.00 feet) to the Southeasterly corner of said Milwaukee and Second Avenue, said point being also the Northwesterly corner of said Lot 43; thence North 63 degrees 11 minutes 25 seconds East, along the Southerly line of said Milwaukee Avenue, said line being also the Northerly line of Lots 43 through 27 inclusive, a measured distance of 522.00 feet (described 521.66 feet) to the point of beginning.

**TOGETHER WITH:**

Easement Agreement as recorded in Liber 31711, Page 834, as amended by Amendment to Easement Agreement dated February 3, 2004, and recorded April 2, 2004 in Liber 40377, Page 1260, Wayne County Records.

**SECOND and BALTIMORE PARCEL:**

Land situated in the City of Detroit, County of Wayne, State of Michigan, described as follows:

Lots 116 and 117 of "Leavitt's Subdivision of that part of fractional Section 31, Town 1 South, Range 12 East", City of Detroit, Wayne County, Michigan as recorded in Liber 9 of Plats on Page 17, Wayne County Records and being more particularly described as follows: Beginning at the Southeasterly corner of Lot 117 of said "Leavitt's Subdivision" (Liber 9, Plats, Page 17, Wayne County Records), said point being also the Northwesterly corner of Baltimore Avenue (60 feet wide) and Second Avenue (80 feet wide); proceeding thence from said point of beginning South 63 degrees 11 minutes 00 seconds West, along the Northerly line of said Baltimore Avenue, said line being also the Southerly line of Lots 117 and 116 of said subdivision, a measured distance of 72.31 feet (recorded 72.15 feet) to the Southwesterly corner of said Lot 116; thence North 26 degrees 13 minutes 50 seconds West, along the Westerly line of said Lot 116, a distance of 107.50 feet to the Northwesterly corner of said lot; thence North 63 degrees 11 minutes 00 seconds East, along the Southerly line of a public alley (16 feet wide), said line being also the Northerly line of Lots 116 and 117 of said subdivision, a measured distance of 72.21 feet (recorded 72.15 feet) to the Northeasterly corner of said Lot 117; thence South 26 degrees 16 minutes 46 seconds East, along the Westerly line of said Second Avenue, said line being also the Easterly line of said Lot 117, a distance of 107.50 feet to the point of beginning.

Tax Identification No. 001080-2 Ward 02  
Tax Identification No. 001090-2 Ward 02  
Tax Identification No. 001399-400 Ward 04

**EXHIBIT A-1**

**SUBLEASED PREMISES**

The gymnasium building to be constructed pursuant to the Workletter attached as Exhibit F to the Sublease

## EXHIBIT B

### COMMENCEMENT DATE AGREEMENT

THIS AGREEMENT, made as of this \_\_\_\_ day of \_\_\_\_\_, 2009, by and between ARGONAUT BUILDING MASTER TENANT, LLC, a Michigan limited liability company, having an address at c/o College for Creative Studies, 201 E. Kirby, Detroit, Michigan 48292-4034, hereinafter referred to as "Sublandlord" and TEF-SIX, LLC, a Michigan limited liability company, having an address at \_\_\_\_\_, hereinafter referred to as "Subtenant."

#### W I T N E S S E T H

WHEREAS, Sublandlord and Subtenant entered into that certain sublease dated September \_\_\_\_, 2008 (the "Sublease") for premises located at \_\_\_\_\_, Detroit, Michigan, which said premises are more particularly described in said Sublease; and

WHEREAS, Sublandlord and Subtenant desire to memorialize the Commencement Date and Expiration Date of the Sublease;

NOW, THEREFORE, in consideration of the terms of the Sublease, and for other good and valuable consideration, the parties hereto agree as follows:

1. The term of the Sublease commenced on \_\_\_\_\_, 2009, and Subtenant's obligation to pay rent under the Sublease commenced on \_\_\_\_\_, 2009.
2. The Expiration Date of the Sublease is \_\_\_\_\_.
3. The Subtenant has accepted possession of the Subleased Premises fully and without reservation pursuant to the terms of the Sublease.
4. As of the date of this agreement, all improvements to the Subleased Premises that the Sublandlord is required to furnish under the Sublease have been fully completed. There are no provisions in the Sublease obligating the Sublandlord, after the date of this agreement, to erect or build any building on, to perform any construction or renovation work to, or to otherwise make any improvements to the Premises or the Subleased Premises.
5. Monthly rent under the Sublease is \$ \_\_\_\_\_ and is being paid on a current basis, in advance, on the date specified in the Sublease. As of the date of this agreement, the Subtenant is current on payment of all reimbursements of Sublandlord expenses, if any, required under the Sublease.
6. All other terms, conditions and provisions of the Sublease shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

ARGONAUT BUILDING MASTER  
TENANT, LLC, Sublandlord

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 2009

TEF-SIX, LLC, Subtenant

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 2009